

Federal Communications Commission

1997

63rd Annual Report





Commissioners

*Members of the Federal Communications Commission
during fiscal year 1997*

Reed E. Hundt, Chairman
(Term expires June 30, 1998)

James H. Quello
(Term expires June 30, 1996)

Susan Ness
(Term expires June 30, 1999)

Rachelle B. Chong
(Term expires June 30, 1997)

Letter of Transmittal

Federal Communications Commission Washington, DC 20554

To the Congress of the United States

We submit for your consideration the 63rd Annual Report of the Federal Communications Commission for fiscal year 1997. It includes information required by the Communications Act of 1934, as amended, and the Communications Satellite Act of 1962.

The report contains a comprehensive review of key events in the Commission's areas of regulatory concern: broadcasting, cable television, common carrier, international communications, wireless telecommunications, spectrum management, and frequency allocations.

It also covers major administrative matters, engineering, legal and legislative activities.

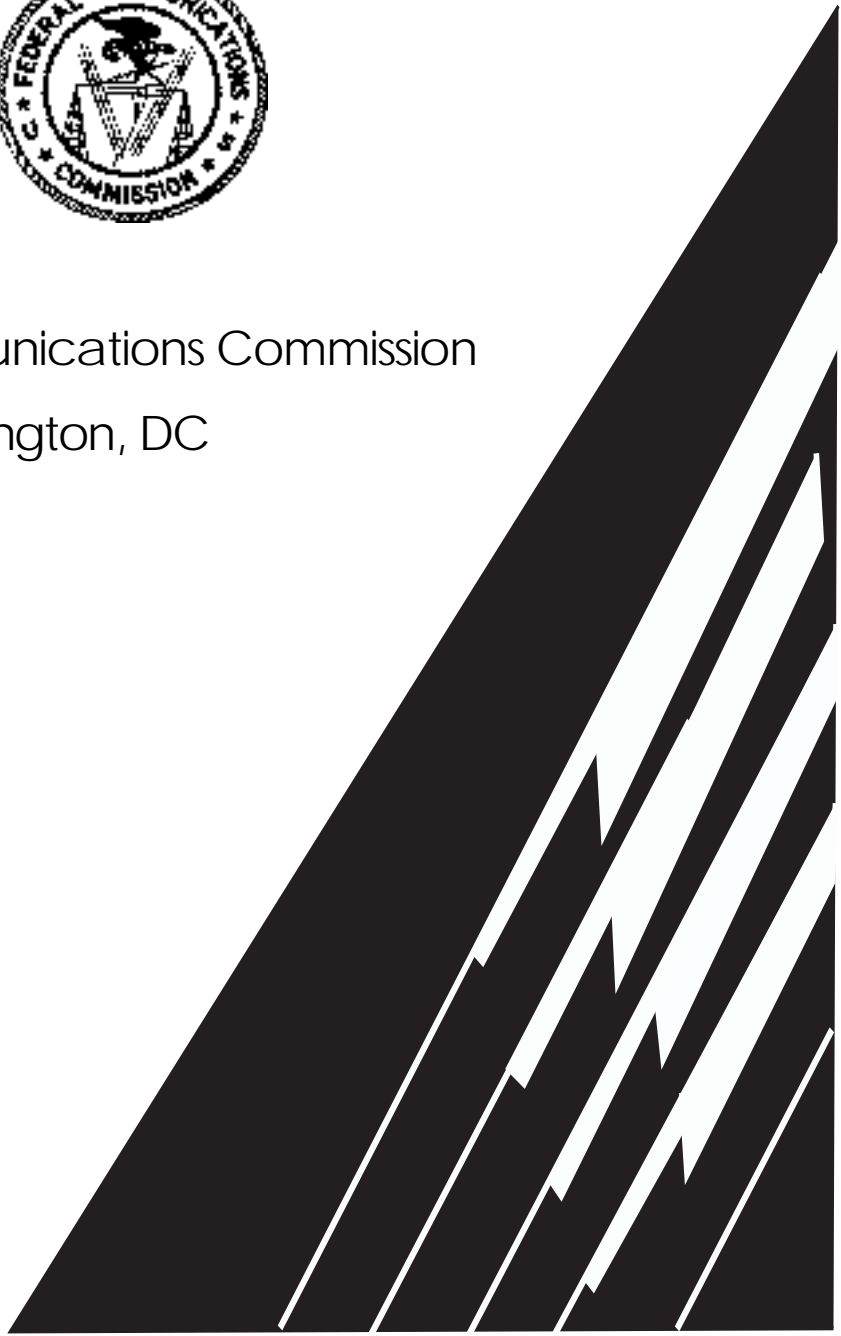
Respectfully,

Reed E. Hundt
Chairman

63rd Annual Report



Federal Communications Commission
Washington, DC



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Commissioners

Reed E. Hundt (Democrat)

Chairman



Nominated to the Commission to serve as Chairman by President Clinton; confirmed by the Senate November 19, 1993; sworn in November 29, 1993; term ends June 30, 1998.

Prior to coming to the Commission Chairman Hundt was a senior partner in the Washington DC, office of Latham & Watkins, a national and international law firm, where his practice included representation on state, federal and international communication issues including local exchange telephone, long distance, international fiber optic, cable television alternatives and satellite, and First Amendment work.

He also has handled pro bono matters for the United States Court of Appeals for the Fourth Circuit, the NAACP Legal Defense Fund, the Lawyers Committee for Civil Rights, Conservation International and the D.C. Preservation League. He served as a law clerk to the late Chief Judge Harrison L. Winter of the United States Court of Appeals for the Fourth Circuit. Hundt was a senior advisor to the Clinton for President campaign and a senior advisor and member of the Economic Council for the Presidential Transition Team. In addition, he has advised Vice President Gore on economic issues since 1984.

Born in Ann Arbor, MI, March 3, 1948, Hundt received a B.A., magna cum laude, with an exceptional distinction in history, from Yale College in 1969 and a J.D. from Yale Law School in 1974. Chairman Hundt belongs to the District of Columbia, Maryland and California Bars.

James H. Quello (Democrat)



Nominated to the Commission by President Nixon; confirmed by the Senate April 23, 1974; sworn in April 30, 1974. Reappointed by President Reagan in 1981 and again in 1984 for a third term; confirmed by the Senate June 15, 1984; sworn in July 26, 1984; Commissioner Quello was reappointed by President Bush in 1991 for a fourth term; confirmed by the Senate June 25, 1991; sworn in July 12, 1991; term ended June 30, 1996; continues to serve since no replacement has been confirmed.

Commissioner Quello served as Interim Chairman February 5, 1993, to November 29, 1993. He rose from position of Promotion Manager (1960) of radio station WJR, Detroit, to Vice President, General Manager (1974); retired as Vice President of Capital Cities Broadcasting Corporation (1972). Detroit Housing and Urban Renewal Commissioner (1951-73); trustee, Michigan Veterans Trust Fund (1951-74).

Member of Governor's Special Study Commission on Urban Problems; Governor's Special Study Committee on Legislative Compensation; Assistant National Public Relations Chairman, Veterans of Foreign Wars; TV-radio Chairman, United Foundation; Executive Board Member, Boy Scouts of America; and board member, American Negro Emancipation Centennial.

Born in Laurium, MI, April 21, 1914, he holds a B.A. degree from Michigan State University (1935). He has been awarded an honorary doctorate of public service from Northern Michigan University (1975); distinguished alumni award and honorary doctorate of humanities from Michigan State University (1974 and 1977).

Commissioners

Susan Ness (Democrat)



Nominated to the Commission by President Clinton on April 14, 1994; confirmed by the Senate on May 19, 1994. Ness fills the seat vacated by the Honorable Ervin Duggan. Term ends June 30, 1999.

As a communications attorney, she has served as a senior leader and group head in the Communications Industries Division of the American Security Bank, a regional financial institution based in Washington, DC.

Served as Assistant Counsel to the House Committee on Banking, Currency and Housing. Later, founded and directed the Judicial Appointments Project of the National Women's Political Caucus. Served as vice chair of the Montgomery County Task Force on Community Access Television and was president of the Montgomery County Commission for Women.

She holds a B.A. from Douglass College (Rutgers University), a Masters in Business Administration from the Wharton School at the University of Pennsylvania and a J.D., cum laude, from Boston College Law School.

Rachelle B. Chong (Republican)



Nominated to the Commission by President Clinton to fill the vacancy left by the Honorable Sherrie Marshall. The term began on July 1, 1992, and ends on June 30, 1997; confirmed by the Senate on May 19, 1994; sworn in on May 23, 1994. She is the first Asian-American to serve on the Commission.

Formerly a partner in the international law firm of Graham & James. Practiced telecommunications law before the California Public Utilities Commission on behalf of cellular telephone carriers, radio common carriers and developers of innovative telecommunications devices.

Practiced communications law from 1984-1986 with the now-defunct Washington, D.C. law firm of Kadison, Pfaelzer, Woodard, Quinn & Rossi. She is a founding member of Women in Telecommunications in Northern California and a member of the governing Committee of the ABA Forum Committee on Communications. A Phi Beta Kappa scholar, she holds dual B.A. degrees in Journalism and Political Science from the University of California at Berkeley (1981) and a J.D. from Hastings College of Law (1984).

Commissioners From 1934 to Present

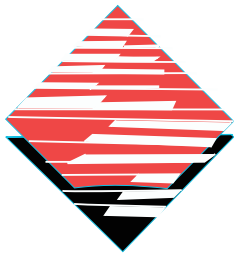
Commissioner	Party Affiliation	State	Term of Service
Eugene O. Sykes <i>Chairman</i>	Democrat	Mississippi	July 11, 1934 to Apr. 5, 1939 <i>July 11, 1934 to Mar. 8, 1935</i>
Thad H. Brown	Republican	Ohio	July 11, 1934 to June 30, 1940
Paul A. Walker <i>Acting Chairman</i>	Democrat	Oklahoma	July 11, 1934 to June 30, 1953 <i>Nov. 3, 1947 to Dec. 28, 1947</i>
<i>Chairman</i>			<i>Feb. 28, 1952 to Apr. 17, 1953</i>
Norman Case	Republican	Rhode Island	July 11, 1934 to June 30, 1945
Irvin Stewart	Democrat	Texas	July 11, 1934 to June 30, 1937
George Henry Payne	Republican	New York	July 11, 1934 to June 30, 1943
Hampson Gary	Democrat	Texas	July 11, 1934 to Jan. 1, 1935
Anning S. Prall <i>Chairman</i>	Democrat	New York	Jan. 17, 1935 to July 23, 1937 <i>Mar. 9, 1935 to July 23, 1937</i>
T. A. M. Craven	Democrat	District of Columbia	Aug. 25, 1937 to June 30, 1944
		Virginia	July 2, 1956 to Mar. 25, 1963
Frank McNinch <i>Chairman</i>	Democrat	North Carolina	Oct. 1, 1937 to Aug. 31, 1939 <i>Oct. 1, 1937 to Aug. 31, 1939</i>
Frederic I. Thompson	Democrat	Alabama	Apr. 13, 1939 to June 30, 1941
James Lawrence Fly <i>Chairman</i>	Democrat	Texas	Sept. 1, 1939 to Nov. 13, 1944 <i>Sept. 1, 1939 to Nov. 13, 1944</i>
Ray C. Wakefield	Republican	California	Mar. 22, 1941 to June 30, 1947
Clifford J. Durr	Democrat	Alabama	Nov. 1, 1941 to June 30, 1948
Ewell K. Jett <i>Interim Chairman</i>	Independent	Maryland	Feb. 15, 1944 to Dec. 31, 1947 <i>Nov. 16, 1944 to Dec. 20, 1944</i>
Paul A. Porter <i>Chairman</i>	Democrat	Kentucky	Dec. 21, 1944 to Feb. 25, 1946 <i>Dec. 21, 1944 to Feb. 25, 1946</i>
Charles R. Denny <i>Acting Chairman</i>	Democrat	District of Columbia	Mar. 30, 1945 to Oct. 31, 1947 <i>Feb. 26, 1946 to Dec. 3, 1946</i>
<i>Chairman</i>			<i>Dec. 4, 1946 to Oct. 31, 1947</i>
William H. Willis	Republican	Vermont	July 23, 1945 to Mar. 6, 1946
Rosel H. Hyde <i>Chairman</i>	Republican	Idaho	Apr. 17, 1946 to Oct. 31, 1969 <i>Apr. 18, 1953 to Apr. 18, 1954</i>
<i>Acting Chairman</i>			<i>Apr. 19, 1954 to Oct. 3, 1954</i>
<i>Acting Chairman</i>			<i>May 1, 1966 to June 26, 1966</i>
<i>Chairman</i>			<i>June 27, 1966 to Oct. 31, 1969</i>
Edward M. Webster	Independent	District of Columbia	Apr. 10, 1947 to June 30, 1956
Robert F. Jones	Republican	Ohio	Sept. 5, 1947 to Sept. 19, 1952
Wayne Coy <i>Chairman</i>	Democrat	Indiana	Dec. 29, 1947 to Feb. 21, 1952 <i>Dec. 29, 1947 to Feb. 21, 1952</i>
George E. Sterling	Republican	Maine	Jan. 2, 1948 to Sept. 30, 1954
Frieda B. Hennock	Democrat	New York	July 6, 1948 to June 30, 1955
Robert T. Bartley	Democrat	Texas	Mar. 6, 1952 to June 30, 1972
Eugene H. Merrill	Democrat	Utah	Oct. 6, 1952 to Apr. 15, 1953
John C. Doerfer <i>Chairman</i>	Republican	Wisconsin	Apr. 15, 1953 to Mar. 10, 1960 <i>July 1, 1957 to Mar. 10, 1960</i>
Robert E. Lee <i>Interim Chairman</i>	Republican	Illinois	Oct. 6, 1953 to June 30, 1981 <i>Feb. 5, 1981 to Apr. 12, 1981</i>
<i>Chairman</i>			<i>Apr. 13, 1981 to May 18, 1981</i>
George C. McConaughy	Republican	Ohio	Oct. 4, 1954 to June 30, 1957

Commissioners From 1934 to Present

Commissioner	Party Affiliation	State	Term of Service
Frederick W. Ford <i>Chairman</i>	Republican	West Virginia	Aug.29,1957 to Dec.31, 1964 <i>Mar. 15, 1960 to Mar. 1, 1961</i>
John S. Cross	Democrat	Arkansas	May 23, 1958 to Sept. 30, 1962
Charles H. King	Republican	Michigan	July 19, 1960 to Mar. 2, 1961
Newton N. Minow <i>Chairman</i>	Democrat	Illinois	Mar. 2, 1961 to June 1, 1963 <i>Mar. 2, 1961 to June 1, 1963</i>
E. William Henry <i>Chairman</i>	Democrat	Tennessee	Oct. 2,1962 to May 1, 1966 <i>June 2, 1963 to May 1, 1966</i>
Kenneth A. Cox	Democrat	Washington	Mar. 26, 1963 to Aug. 31, 1970
Lee Loevinger	Democrat	Minnesota	June 11, 1963 to June 30, 1968
James J. Wadsworth	Republican,	New York	May 5,1965 to Oct.31,1969
Nicholas Johnson	Democrat	Iowa	July 1, 1966 to Dec. 5, 1973
H. Rex Lee	Democrat	District of Columbia	Oct. 28, 1968 to Dec. 31, 1973
Dean Burch <i>Chairman</i>	Republican	Arizona	Oct. 31, 1969 to Mar. 8, 1974 <i>Oct. 31, 1969 to Mar. 8, 1974</i>
Robert Wells	Republican	Kansas	Nov. 6, 1969 to Nov. 1, 1971
Thomas J. Houser	Republican	Illinois	Jan. 6, 1971 to Oct. 5, 1971
Charlotte T. Reid	Republican	Illinois	Oct. 8, 1971 to July 1, 1976
Richard E. Wiley <i>Chairman</i>	Republican	Illinois	Jan. 5, 1972 to Oct. 13, 1977 <i>Mar. 8, 1974 to Oct. 13, 1977</i>
Benjamin L. Hooks	Democrat	Tennessee	July 5, 1972 to July 25, 1977
James H. Quello <i>Chairman</i>	Democrat	Michigan	Apr. 30, 1974 <i>Feb. 5, 1993 to Nov 28,1993</i>
Glen O. Robinson	Democrat	Minnesota	July 10, 1974 to Aug. 30, 1976
Abbott M. Washburn	Republican	Minnesota	July 10,1974 to Oct. 1, 1982
Joseph R. Fogarty	Democrat	Rhode Island	Sept.17,1976 to June 30, 1983
Margita E. White	Republican	Sweden	Sept. 23,1976 to Feb. 28, 1979
Charles D. Ferris <i>Chairman</i>	Democrat	Massachusetts	Oct.17, 1977 to Apr. 10, 1981 <i>Oct. 17, 1977 to Feb. 4, 1981</i>
Tyrone Brown	Democrat	Virginia	Nov. 15, 1977 to Jan. 31, 1981
Anne P. Jones	Republican	Massachusetts	Apr. 7, 1979 to May 31, 1983
Mark S. Fowler <i>Chairman</i>	Republican	Canada	May 18, 1981 to Apr. 17, 1987 <i>May 18, 1981 to Apr. 17, 1987</i>
Mimi Weyforth Dawson	Republican	Missouri	July 6, 1981 to Dec. 3, 1987
Henry M. Rivera	Democrat	New Mexico	Aug. 10, 1981 to Sept. 15, 1985
Stephen A. Sharp	Republican	Ohio	Oct. 4, 1982 to June 30, 1983
Dennis R. Patrick <i>Chairman</i>	Republican	California	Dec. 2,1983 to Apr. 17, 1987 <i>Apr. 18, 1987 to Aug. 7, 1989</i>
Patricia Diaz Dennis	Democrat	New Mexico	June 25, 1986 to Sept.29, 1989
Alfred C. Sikes <i>Chairman</i>	Republican	Missouri	Aug. 8, 1989 to Jan. 19, 1993 <i>Aug. 8, 1989 to Jan. 19, 1993</i>
Sherrie P. Marshall	Republican	Florida	Aug. 21,1989 to April 30, 1993
Andrew C. Barrett	Republican	Illinois	Sept. 8, 1989 to March 30, 1996
Ervin S. Duggan	Democrat	Georgia	Feb. 28, 1990 to Jan. 30, 1994
Reed E. Hundt <i>Chairman</i>	Democrat	Maryland	Nov. 29, 1993 <i>Nov. 29, 1993</i>
Susan Ness	Democrat	New Jersey	May 19, 1994
Rachelle B. Chong	Republican	California	May 23, 1994

The Commission

Overview



The Federal Communications Commission (FCC) is an independent federal regulatory agency responsible directly to Congress. Established by the Communications Act of 1934, it is charged with establishing policies to govern interstate and international communications by radio, television, wire, satellite, and cable. Its jurisdiction covers the 50 states and territories, the District of Columbia and U.S. possessions.

The FCC is directed by five Commissioners appointed by the President and confirmed by the Senate for staggered five-year terms. No more than three can be members of the same political party. The President designates one of the Commissioners to serve as Chairman.

The Chairman presides over all FCC meetings. The Chairman coordinates and organizes the work of the Commission and represents the agency in legislative matters and in relations with other government departments and agencies.

The Commission is committed to the use of emerging technologies to serve its customers -- the American public and regulated industries -- more efficiently.

The Commission continues to expand its use of the Internet, which has become an increasingly popular way for the public to access

information. Extensive information is available through the FCC's "homepage" (<http://www.fcc.gov>). The Commission uses a fax-on-demand system to allow quick access to forms, press releases and other information (202 - 418-4830).

BUREAUS AND OFFICES

In FY97 the Commission had six operating bureaus and 10 offices which provide support services.

Office of the Managing Director (OMD)

Under the supervision and direction of the Chairman, the Managing Director serves as the FCC's chief operating and executive official. The Managing Director provides managerial leadership to, and exercises supervision and direction over, the FCC's bureaus and staff offices in management and administrative matters; formulates and administers all management and administrative policy programs and directives for the Commission; assists the Chairman in carrying out administrative responsibilities; advises the Chairman, Commissioners and management on administrative and related matters; administers the FCC's management systems and directs agency efforts in improving management effectiveness, operational efficiency and employee productivity.

Office of Public Affairs (OPA)

The Office of Public Affairs is responsible for informing the press and public of the FCC's actions, facilitating public participation in the FCC's decision-making processes and operating many of the

FCC's public reference rooms and library. OPA issues daily news releases, public notices and other informational material; prepares the Annual Report and other publications; handles telephone, written, and walk-in requests for information. OPA maintains the FCC's Internet homepage.

Office of the Inspector General (OIG)

The Office of the Inspector General was created by the Inspector General Amendments Act of 1988. The Inspector General conducts and supervises audits and investigations relating to the programs and operations of the agency. The Inspector General recommends policies for activities designed to promote economy, efficiency and effectiveness, as well as to prevent and detect fraud and abuse in agency programs. The Inspector General also provides a means for keeping the Chairman, Commissioners, and the Congress fully informed about problems and deficiencies at the agency. Incidents of waste, fraud, abuse or mismanagement within the FCC may be reported to the Office of Inspector General by dialing (202) 418-0473 or the toll free Hotline- 1-888-TO-FCCIG (1-888-863-2244).

Office of Administrative Law Judges

Administrative Law Judges preside over hearings and issue Initial Decisions. Review of initial decisions is done by the full Commission.

Office of the General Counsel (OGC)

The General Counsel serves as the chief legal advisor to the Commission and its various Bureaus and Offices. The General Counsel also represents the Commission before the federal courts of appeals, recommends decisions in adjudicatory mat-

ters before the Commission, assists the Commission in its decisionmaking capacity, performs a variety of legal functions regarding internal administrative matters and advises the Commission on fostering competition and promoting deregulation in a competitive environment. (A more extensive profile of the Office is included later in this report.)

Office of Workplace Diversity (OWD)

This Office serves as the principal advisor to the Chairman and Commission on all issues relating to workforce diversity, affirmative recruitment, and equal employment opportunity (EEO) within the Commission. The Office enforces EEO and civil rights laws that apply to employees and applicants for employment, trains employees on subjects such as race relations and preventing sexual harassment in the workplace, counsels employees, and develops and implements policies and programs that encourage fair and equal treatment of Commission employees, affirmative recruitment, and that foster understanding and acceptance of the diversity that employees of the Commission bring to the workplace.

Office of Communication Business Opportunities (OCBO)

The Office of Communications Business Opportunities (OCBO) is responsible for providing advice to the Commission on issues and policies concerning opportunities for ownership and contracting by small, minority and women-owned communications businesses. The Office also advises the Commission on policies to foster equal employment opportunity in the communications in-

dustries for minorities, women, and people with disabilities.

The Office works with entrepreneurs, industry and public interest organizations and individuals to provide information about policies to promote ownership and employment opportunities in the communications industry.

OCBO is the FCC's primary resource for implementing the Contract With America Advancement Act's (CWAAA) provisions regarding small business. OCBO oversees the Regulatory Flexibility Analysis process to ensure that small business interests are fully considered in all FCC actions. The Office coordinates CWAAA provisions to increase agency responsiveness to the concerns of small business.

Office of Plans and Policy (OPP)

The Office of Plans and Policy serves as principal economic and technical policy adviser to the Commission, analyzing agenda items and developing long-term policy. The Office also produces working papers on major policy issues. (A more extensive profile of the Office is included later in this report.)

Office of Legislative and Intergovernmental Affairs (OLIA)

The Office of Legislative and Intergovernmental Affairs serves as the Commission's principle point of contact with Congress and other governmental entities. (A more extensive profile of the Office is included later in this report.)

Office of Engineering and Technology (OET)

The Office of Engineering and Technology is responsible for managing the non-Government use of the spectrum. OET makes recommendations to the Commission on how the radio spectrum should be allocated and establishes the technical standards to be followed by users. (A more extensive profile of the Office is included later in this report.)

The Operating Bureaus

The Commission is divided into six operating Bureaus reflecting six broad divisions of Commission responsibility. These are: the Mass Media, Common Carrier, Wireless Telecommunications, Compliance and Information, International, and Cable Services Bureaus. The FY97 work of each Bureau is discussed in the following chapters of this report.

FCC Personnel Chart

Full Time Permanent Employees	Washington D.C.	Field	Total
Commissioners Offices	32	0	32
Office of Plans and Policy	10	0	10
Office of Managing Director	173	4	177
Mass Media Bureau	260	0	260
Common Carrier Bureau	255	3	258
Compliance and Information Bureau	58	207	265
Cable Services Bureau	110	0	110
International Bureau	113	0	113
Wireless Telecommunications Bureau	168	104	272
Office of Engineering and Technology	85	0	85
Office of Public Affairs	63	0	63
Office of Communications Business Opportunities	8	0	8
Office of Workplace Diversity	4	0	4
Office of General Counsel	67	0	67
Office of Legislative and Inter-Governmental Affairs	11	0	11
Office of Inspector General	7	0	7
Administrative Law Judges	13	0	13
Total	1,437	318	1,755

FCC Appropriations History

FY70-79

1970.....	\$24,561,000
1971.....	\$26,844,000
1972.....	\$31,969,000
1973.....	\$34,173,000
1974.....	\$40,155,000
1975.....	\$46,900,000
1976.....	\$51,163,000
1977.....	\$56,911,000
1978.....	\$64,550,000
1979.....	\$70,466,000

FY80-89

1980.....	\$76,047,000
1981.....	\$80,363,000
1982.....	\$79,900,000
1983.....	\$82,917,000
1984.....	\$88,283,000
1985.....	\$95,441,000
1986.....	\$90,341,000
1987.....	\$97,099,000
1988.....	\$99,613,000
1989.....	\$99,613,000

FY90-97

1990.....	\$107,550,000
1991.....	\$116,794,000 1/
1992.....	\$126,309,000
1993.....	\$140,000,000 2/
1994.....	\$160,300,000
1995.....	\$185,232,000 3/
1996.....	\$185,709,000 4/
1997.....	\$189,079,000 5/

1/ Final action of Graham Rudman - Hollings Sequestration Act on total appropriation Level of \$116,794,000 reduced available funds by \$1,518 to \$116,792,482.

2/ Appropriation included \$11,500,000 in supplemental no-year funding to implement the Cable Television Consumer Protection and Competition Act of 1992.

3/ Reduced by \$305,000 for administration and contract costs savings to \$184,927,000.

4/ Reduced by \$90,000 for administrative costs to \$185,619,000.

5/ Reduced by \$1,000,000 due to rescission to \$188,079,000.

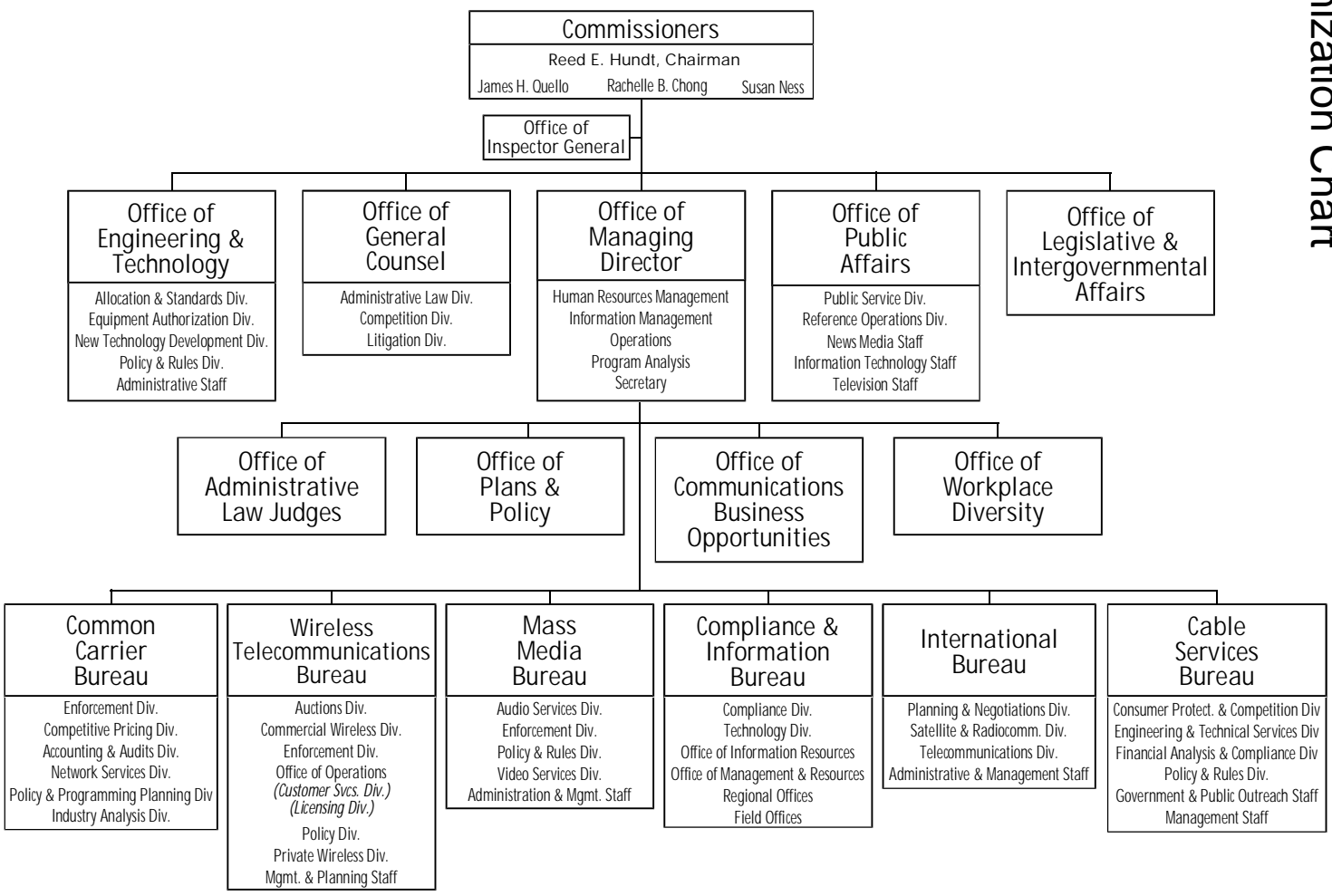
Fees Collected FY87-97

FY87.....	\$10,330,000
FY88.....	\$41,206,000
FY89.....	\$56,858,000
FY90.....	\$27,559,000
FY91.....	\$46,361,000
FY92.....	\$50,618,000
FY93.....	\$39,102,000
FY94.....	\$42,780,000
FY95.....	\$50,609,000
FY96.....	\$42,832,000
FY97.....	\$38,014,000

Regulatory Fees Collected FY94-97

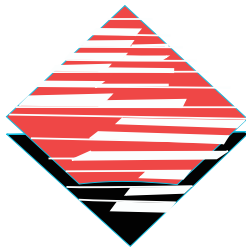
FY94.....	\$58,702,000.00 1/
FY95.....	\$119,339,000.00 1/
FY96.....	\$126,500,000.00 1/
FY97.....	\$155,925,000.00 1/

1/ Represents the total collections through September 30 of each fiscal year credited on Treasury warrant.



Mass Media Bureau

Overview



The Mass Media Bureau is the part of the FCC that deals with broadcasting-- television and radio-- as well as Multipoint Distribution Service (MDS) (sometimes called wireless cable) and Instructional Television Fixed Service (ITFS), a service used mainly by educational entities to provide classroom instruction to multiple locations. The Bureau issues licenses (authorization of service), performs policy and rulemaking functions and administers the enforcement program for all mass media services.

In FY97 the Commission formally laid the groundwork for the transition to digital, high definition television by adopting a digital broadcast television (DTV) standard, service policies and rules for DTV and by awarding a second channel to each of the 1,700 U.S. television broadcasters. DTV promises to be the most important innovation in broadcasting since the introduction of color TV 40 years ago. The digital technology will enable broadcasters to offer crystal-clear images, multiple program streams with an image quality at least equivalent to existing television image quality, CD-quality sound and an array of new services for television viewers beginning in 1998.

Also in FY97, the Commission took several actions in the Mass Media area to streamline the Bureau's processes and to lessen the regulatory burden on its licensees including the adoption of a one-step licensing process for certain minor changes in broadcast station facilities and the lengthening of license terms from five to eight years for television stations and from seven to eight years for radio stations.

The Bureau continued to maximize its use of new technologies in FY97 through expansion of its use of the Internet to further enhance the availability of information to its licensees and the general public. The Bureau also implemented an electronic filing option for broadcasters to file their Children's Educational Television Programming Reports and continued its work to eventually enable its licensees to file a wide variety of applications and other submissions electronically.

The **Audio Services Division** (ASD) is responsible for reviewing and taking action on all applications filed by the nation's 13,317 FM and AM stations and 3,601 FM translator and booster stations. The adoption in March 1996 of several *Orders* implementing sections of the Telecommunications Act of 1996 significantly increased the workload of the Division during the last half of FY96 and during FY97. Most notably, the substantially relaxed broadcast station ownership limitations triggered an unprecedented level of applications seeking consent for proposed radio mergers and acquisitions. Specifically, sales application filings rose from a then-record 2,219 in FY95 to almost 3500 in FY96 to over 4000 in FY97. Many of these transactions were very complex and resulted in large media conglomerates. For example, the Infinity Broadcasting/Westinghouse merger resulted in the common ownership of 77 radio stations; the

Evergreen Media/Chancellor Broadcasting consolidation brought the number of radio stations under the control of Hicks, Muse, Tate & Furst to 275; and a series of acquisitions by Jacor and Clear Channel increased each of these group owners' holdings to over 100 radio stations. Nonetheless, ASD maintained an impressive speed of disposal rate in processing this deluge of applications.

The **Video Services Division** (VSD) is responsible for reviewing and taking action on all applications filed by the nation's 1,725 commercial and non-commercial educational television and 8,230 TV translator and low power television broadcast stations (LPTV). VSD is also responsible for the disposition of applications and other requests regarding the development and licensing of facilities in the Multipoint and/or Multichannel Distribution Service (MDS) and the Instructional Television Fixed Service (ITFS).

The Telecom Act of 1996 eliminated the 12-station numerical limitation on the number of commercial television stations that could be owned or controlled by a single entity. It also heralded in an unprecedented era of transactional activity in the television broadcast industry. While the Commission is exploring in ongoing rulemaking proceedings its television local ownership restrictions and the manner of determining television audience reach under the new 35% national audience reach limitation, multi-million dollar, multiple television station transactions have now become common. This is attested to by the approved merger of Renaissance Communications Corporation with the Tribune Company, which added Renaissance's six television stations to Tribune's 10 television stations with a combined audience reach approximating 25% of U.S. television homes, the previous audience reach limitation. In the same vein,

Raycom Media, Inc. which already indirectly controlled 15 television stations, acquired through Commission-approved license assignments and transfers of control an additional 14 television stations, while A.H. Belo Company joined The Providence Journal Company's 11 television and 38 LPTV stations with its existing seven television station holdings.

The **Policy and Rules Division** (PRD) conducts rulemaking proceedings which affect the mass media services and provides legal and technical analyses of these rules. The Policy and Rules Division also conducts economic studies to formulate and evaluate Commission policies in terms of their economic effects on the mass media or on other Commission regulated industries or society, and evaluates economics and other studies submitted to the Commission in connection with various proceedings.

In November 1996 PRD launched its web pages on the Internet. Designed for broadcasters, the bar, and the general public, the PRD web pages provide on-line advice on how to participate in rulemaking activities, access to rulemaking documents (such as Notices of Proposed Rule Making and Reports and Orders) concerning broadcast matters, including weekly updates of access to all allocations decisions, and links to numerous related-topic sites.

The **Enforcement Division** responds to complaints, conducts investigations of broadcast stations, handles matters concerning political broadcasting, enforces the broadcast and cable television equal employment opportunity laws and rules, and participates in formal adjudicative proceedings involving broadcast stations.

Major Proceedings



Digital Television Service (DTV) (MM Docket No. 87-268)

In December 1996 the Commission released the *Fourth Report and Order* in the Digital Television proceeding, adopting a digital broadcast television transmission standard (DTV Standard). The DTV Standard is a modification of the Advanced Television Systems Committee DTV Standard (ATSC DTV Standard) proposed in the *Fifth Further Notice of Proposed Rulemaking* and is consistent with a consensus agreement voluntarily developed by a broad cross-section of parties, including the broadcasting, consumer equipment manufacturing and computer industries. Specifically, the *Fourth Report and Order* required the use of all layers of the ATSC DTV Standard except the video format layer, which remains optional.

In a *Fifth Report and Order* released in April 1997, the Commission adopted a number of service policies and rules for DTV. The *Fifth Report and Order* set a timetable for applying for and constructing DTV facilities, in which network affiliates in the largest markets will be required to construct earlier than other television broadcasters. It also

established a target date of 2006 for broadcasters to complete their transitions to DTV and surrender their analog frequencies. (Congress subsequently codified this date in the Balanced Budget Act of 1997, which specifies conditions that, if not met, would enable broadcasters in markets not meeting the conditions to postpone the surrender of their analog frequencies).

In addition, the *Fifth Report and Order* (1) limited the initial eligibility for DTV licenses to existing full-power broadcasters; (2) required DTV licensees to provide at least one free digital video programming service; (3) allowed licensees to provide ancillary and supplemental services that do not derogate the mandated, free over-the-air program service; and (4) gave broadcasters the discretion as to how much, if any, high definition television programming they will transmit.

In April 1997 the Commission released the *Sixth Report and Order*, which concerned the allotment of channels for digital broadcast television use. The *Sixth Report and Order* adopted policies for developing the initial DTV allotments, procedures for assigning DTV frequencies, and plans for spectrum recovery. It also included technical criteria for the allotment of additional DTV frequencies and provided a DTV Table of Allotments. The Office of Engineering and Technology was responsible for the *Sixth Report and Order*, with the Mass Media Bureau providing assistance.

Digital Television: Tower Preemption (MM Docket No. 97-182)

In August 1997 the Commission adopted a *Notice of Proposed Rulemaking* addressing an issue closely related to the construction of digital tele-

vision facilities. State and local land-use and zoning laws governing tower modification and construction may delay the modification or construction of DTV transmission facilities. Therefore, the Commission requested comment on a proposed rule setting forth specific time periods within which state and local regulatory authorities must act on requests for modification or construction of broadcast transmission facilities before the Commission preempts their authority to act. The *NPRM* requested comment on whether, and under what circumstances, the Commission should exercise its authority to preempt state or local law or regulation.

Attribution Rules For Broadcast Station Ownership (MM Docket Nos. 94-150, 92-51, & 87-154)

In November 1996 the Commission issued a *Further Notice of Proposed Rulemaking* in the pending Attribution proceeding. The *Further Notice* invited further comment on several outstanding issues relating to the attribution of broadcast interests for the purposes of enforcing the multiple ownership rules, in light of the ownership changes effected by the Telecommunications Act of 1996. It also invited comment on a proposal to add a new “equity or debt plus” attribution standard to its rules. Under this proposed standard, where the interest holder is a program supplier or same-market broadcaster or media entity subject to the broadcast cross-ownership rules (*i.e.*, cable systems and newspapers), the Commission would attribute its otherwise nonattributable equity and/or debt interest in a licensee or other media entity subject to the cross-ownership rules, if the equity and/or debt holding exceeds a certain amount. The *Further*

Notice proposed a 33% benchmark for debt, equity, or a combination of the two. The Commission also sought comment on whether it should attribute television Local Marketing Agreements (LMAs) and radio or television joint sales agreements (JSAs) among licensees in the same market, tentatively concluding that television LMAs should be attributed where they involve more than 15 percent of the brokered station's weekly broadcast hours. In addition, the *Further Notice* invited comment on whether to modify the cable/MDS cross-ownership attribution rules to apply broadcast attribution criteria.

Local Television Ownership Rules (MM Docket Nos. 91-221 and 87-8)

In November 1996 the Commission issued a *Second Further Notice of Proposed Rulemaking* in this proceeding, in order to update the record in light of the passage of the Telecommunications Act of 1996 (Telecom Act). The rules currently prohibit a person or entity from having cognizable interests in two television stations whose Grade B signal contours overlap. They also prohibit the licensee of a television station from obtaining a cognizable interest in a radio station with overlapping contours unless one or more of several waiver conditions is met. Finally, the Commission does not currently have rules governing television local marketing agreements (LMAs) as it does with radio LMAs. The *Second Further Notice* sought comment on the following:

Local Television Ownership Rule: The *Second Further Notice* proposed to authorize common ownership of television stations that are in separate DMAs (Nielsen's Designated Market Areas) and whose Grade A contours do not overlap. It

also requested comment on several criteria by which the Commission may entertain waivers of the rule. The Commission also sought comment on continuing to permit common ownership within a DMA if there is no Grade B overlap (the current standard). Such a rule would be no more restrictive than our current regulation and would not disrupt current ownership patterns.

Radio-Television Cross-Ownership Rule: Parties may own, pursuant to waiver requests, radio-television combinations in the top 25 television markets where there will be at least 30 separately owned broadcast licensees after the combination. Pursuant to the Telecom Act, the *Second Further Notice* proposed to extend this policy to the top 50 markets. In addition, because the proposals in the previous *Notice* were based on the local radio ownership rules before they were relaxed by the 1996 Act, the *Second Further Notice* invited parties to comment on the significance of the change. It also asked the extent to which the local radio rules and the radio-television rules remain inter-related at all and, as a result, the extent to which the radio-television cross-ownership rule is still warranted.

Television LMAs: The Telecom Act contains statements regarding the "grandfathering" of existing television LMAs. The *Second Further Notice* requested comment on the significance and applicability of that statutory provision to television LMAs that may be deemed attributable. (The issue of whether television LMAs should be attributable under the broadcast ownership rule is addressed in the Attribution proceeding.)

National Television Ownership Rules (MM Docket No. 96-222)

On November 7, 1996, the Commission released a *Notice of Proposed Rulemaking* reviewing the Commission's national broadcast television ownership rules. Pursuant to the Telecommunications Act of 1996, an entity may generally not have an attributable interest in commercial television stations with an aggregate national audience reach exceeding 35%. A station's audience reach is determined by the number of television households in that station's Area of Dominant Influence (ADI), as determined by the commercial ratings service, Arbitron.

The *NPRM* first addressed the "UHF discount," by which a UHF station is attributed with only 50% of the television households in the market, and postponed further consideration of whether to modify or repeal the rule until 1998 (at which time all ownership rules will undergo a statutorily mandated biennial review). Second, the *NPRM* proposed to eliminate the satellite exemption to the rule for satellite stations that operate in separate markets from their parent stations. However, for same-market satellites, the Commission proposed not to double count the audience in that market when calculating the parent station's national audience reach. Similarly, where one station has a local marketing agreement (LMA) with another, the *NPRM* proposed not to double count that market. Finally, the Commission proposed to define a station's market for the purposes of calculating audience reach by using Designated Market Areas (as determined by Nielsen) instead of ADIs, because Arbitron no longer updates its county by county determinations of each station's ADI.

Main Studio and Public File Rules (MM Docket No. 97-138)

In May 1997 the Commission released a *Notice of Proposed Rulemaking* seeking comment on proposals to relax the main studio and public file rules and to streamline the public file. The *NPRM* sought comment on several options as to where a station must locate its main studio. The *Notice* also proposed to allow licensees to locate their local public inspection files at their main studios, wherever they are located. In addition, the Commission proposed to clarify and streamline requirements regarding the contents of the public inspection file and to clarify the public file rule by deleting or amending certain requirements.

One-Step Licensing (MM Docket No. 96-58)

The Telecommunications Act of 1996 amended Section 319 of the Communications Act to permit the Commission to adopt rules to except from the statutory construction period requirement "minor changes in the facilities of authorized broadcast stations." In response, the Commission initiated a new proceeding in 1996 and adopted a *Report and Order* in August 1997. The *R&O* eliminated the previously existing two-step procedure where the changed facilities will not have an adverse impact on other broadcast facilities. Stations also will be permitted to implement certain changes without prior authority and file a license application afterwards.

Grandfathered Short-spaced FM Stations (MM Docket No. 96-120)

In August 1997 the Commission adopted a *Report and Order* that provided some additional relief for stations authorized prior to November 1964 which did not meet minimum distance separations established subsequently and which have remained short-spaced since that time. The *R&O* adopted for this limited class of so-called Section 73.213 stations, new rules that would provide additional flexibility as to site selection. Specifically, it adopted a new predicted interference methodology, eliminated the second adjacent channel and third adjacent channel separation requirements, and eliminated the need for agreements to permit the use of facilities beyond the maximums provided by Section 73.213.

AM Expanded Band, (MM Docket No. 87-267)

In March 1997 the Commission adopted a *Memorandum Opinion and Order* in the AM expanded band proceeding, which was initiated to improve and revitalize the AM broadcast band and to license new stations in the frequencies between 1605 and 1705 kHz. This reconsideration order clarified the technical standards for identifying the best stations for migration to the expanded band. In March, the Mass Media Bureau concurrently released an eighty-eight station allotment plan and established a window for the filing of applications. By the end of the fiscal year, the Bureau had issued more than twenty construction permits for new expanded band stations.

License Terms For Broadcast Stations (MM Docket No. 96-90)

In January 1997 the Commission released a *Report and Order* implementing Section 203 of the Telecommunications Act of 1996. Section 203 eliminated the statutory distinction between the maximum allowable license terms for television and radio stations, and it provides that such licenses may be for terms “not to exceed 8 years.”

The Commission amended its rules to provide that the Commission will ordinarily grant broadcast licenses for the 8-year terms allowed by the Telecom Act, while still reserving the authority to grant individual licenses for less than the statutory maximum if the public interest, convenience and necessity would be served by such action.

The Commission also implemented the new license terms as follows: For renewal applications granted *after* March 7, 1997 (the effective date of the *R&O*), the Commission will ordinarily grant the renewed license for the maximum proposed term of 8 years. For renewal applications processed *prior* to March 7, 1997, the Commission will extend by rule the already renewed license term for such stations to the 8-year term.



Mass Media Statistics

Current Broadcast Authorizations

Outstanding broadcast authorizations for major services at the close of FY97 totaled 26,873, an increase of 1,934 over FY96.

Class	Sept. 30, 1996	Increase Sept. 30, 1997	or (decrease)
Standard (AM)	5,013	4,970	(43)
Frequency Modulation (FM)	6,017	6,107	90
Educational FM	2,136	2,240	104
UHF Commercial TV	749	763	14
VHF Commercial TV	574	575	1
UHF Educational TV	256	259	3
VHF Educational TV	127	128	1
LPTV/TV Translators (UHF-VHF)	6,872	8,230	1,358
FM Translator and Booster	<u>3,195</u>	<u>3,601</u>	<u>406</u>
Totals	24,939	26,873	1,934

There were 15,042 AM, FM and TV broadcast stations authorized at the close of FY97. A total of 13,790 had operating authorizations, and 1,252 were under construction.

Class	Licensed Stations Sept. 30, 1996	Outstanding Construction Permits for New Stations Sept. 30, 1996	Licensed Stations Sept. 30, 1997	Outstanding Construction Permits for New Stations Sept. 30, 1997
Standard (AM)	4,872	141	4,811	159
Frequency Modulation (FM)	5,390	627	5,510	597
Educational FM	1,850	286	1,906	334
UHF Commercial	627	122	639	124
VHF Commercial TV	560	14	558	17
UHF Educational TV	241	15	242	17
VHF Educational TV	<u>123</u>	<u>4</u>	<u>124</u>	<u>4</u>
Totals	13,663	1,209	13,790	1,252

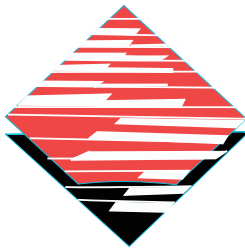
Nonhearing Applications Statistics

Standard Broadcast (AM), Frequency Modulation (FM) - Commercial and Educational, and FM Translators and Boosters

Class	On hand Oct. 1, 1996	New	Granted	Dismissed Denied Returned	Designated for hearing	On hand Oct. 1, 1997
AM/FM New stations and major changes	1,364	1418	482	149	6	2,145
FM Translators and Boosters New stations and major changes	598	787	585	260	0	540
Assignments and transfers	599	4,132	3,949	109	0	673
Renewals	2,006	5,341	4,780	38	4	2,525
Licenses	726	1,382	1,134	39	0	935
Modifications and Extensions	597	1,579	1,321	178	1	676
Television (TV) (Commercial and Educational)						
New stations and major changes	577	226	16	15	1	771
Assignments and transfers	84	513	491	13	0	93
Renewals	1 19	562	533	0	1	147
Licenses and other	465	221	226	0	9	451
LPTV/TV Translators and Boosters						
New stations and major changes	1,653	8	824	192	0	645
Assignments and transfers	66	245	236	19	0	56
Renewals	255	2,401	2,269	0	1	386
Licenses and other	238	1,500	1,491	96	0	151
Instructional TV Fixed						
New stations and major changes	1,395	194	223	231	0	1,135
Assignments and transfers	1	3	1	0	0	3
Renewals	58	120	130	2	0	46
Licenses and other	574	976	627	291	0	632

Common Carrier Bureau

Overview



The Common Carrier Bureau has responsibility for FCC policies concerning telephone companies that provide interstate telecommunications services to the public through the use of wire-based transmission facilities. These companies, called common carriers, provide voice, data, and other transmission services. The Common Carrier Bureau works closely with the other operating Bureaus, especially the International Bureau, the Wireless Telecommunications Bureau, and the Cable Services Bureau, to coordinate related matters.

On February 8, 1996, President Clinton signed the Telecommunications Act of 1996 (1996 Act). Under the Communications Act of 1934, as amended by the 1996 Act, the FCC is charged with ensuring that common carriers provide services at just, reasonable, and affordable prices and in a nondiscriminatory manner.

As the industry has evolved from an integrated monopoly to an intensely competitive industry, the FCC and the Common Carrier Bureau have striven to adapt the Communications Act to a rapidly changing industry.

The FCC has jurisdiction over interstate communications services such as telephone calls between states. These services also include the connections to local customers that local exchange carriers (LECs) provide to long distance telephone companies.

The FCC works closely with state regulators on the many issues that affect both jurisdictions. On such issues as universal service, the FCC and the states work together through the formation of a Federal-State Joint Board, whose members are drawn from the FCC and from state regulatory bodies.

Competition is a cornerstone of the FCC's regulatory policy in all areas. In the common carrier area, the FCC seeks to encourage competition in various telephone markets and to ensure that its regulations do not impede the development of competition. Where competition does not yet exist, or where it fails to protect consumers, the Bureau enforces Commission rules and policies that are designed to ensure that the Communications Act mandate of just, reasonable and non-discriminatory rates for interstate services is fulfilled.

In FY97 the Common Carrier Bureau had a staff of approximately 350. It is organized into six divisions:

The **Accounting and Audits Division** develops and administers the Commission's Uniform System of Accounts for communications common carriers, including related Commission requirements for reporting and preservation of records, implementing the jurisdictional separations the universal service rules and responsibilities.

The Division monitors carrier compliance with Commission requirements through the review and approval of carrier accounting reports and conducts a program of comprehensive and selective field audits and investigations of carriers' financial and operating practices, procedures and records.

The **Competitive Pricing Division** is responsible for administering the tariffing provisions of Sections 201 - 205 of the Communications Act of 1934, as amended, including the review of all domestic and international common carrier tariffs, and conducting tariff investigations. The Division is also responsible for implementing various sections of the 1996 Act, including the development of federal regulations relating to pricing of the various forms of interconnection, the administration of regulatory reform provisions relating to the review of local telephone company tariffs on a streamlined basis, and the development and implementation of forbearance as it relates to the tariffing and pricing of common carrier telecommunications services.

The **Enforcement Division** handles complaints, rulemakings and other matters related to the Communications Act of 1934 and implementation of the 1996 Act. All carriers, even those that the Commission has chosen not to regulate directly because of increased competition in the marketplace, are subject to certain consumer protection requirements. All users of telecommunications services retain the right to bring their formal or informal complaints directly to the Commission.

The **Industry Analysis Division** gathers and publishes data about the telecommunications industry. It also administers the Commission's programs for assisting low-income telephone subscribers. Pursuant to its data gathering activities, IAD undertakes to advise the Commission and the public about trends in the telecommunications industry. Throughout the fiscal year, IAD prepares numerous statistical reports that are published by the Commission and the Federal-State Joint Board, and answers thousands of inquiries from the public about telephone industry-related data and trends.

IAD also provides statistical analyses and other support to other divisions within the Common Carrier Bureau and to the Commission as a whole, and conducts rulemakings and other public proceedings related to the Communications Act of 1934 and implementation of the Telecommunications Act of 1996.

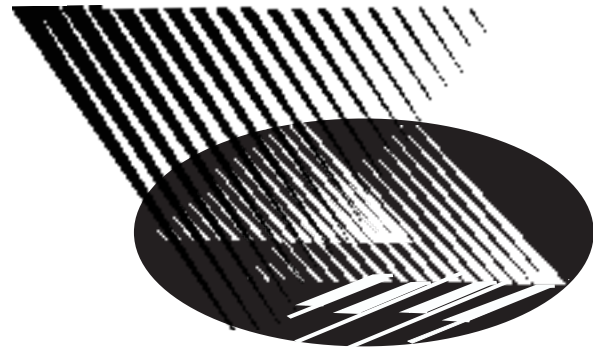
The **Network Services Division** is responsible for recommending and implementing rules and policies regarding: numbering (for example, toll free numbers, North American Numbering Plan Administration, abbreviated dialing arrangements such as N11 codes, and area code relief plans); toll fraud; consumer services (for example, Caller ID and the Telephone Consumer Protection Act); and programs required by the Americans with Disabilities Act (including Telecommunications Relay Service for the hearing-impaired and hearing aid compatibility) and by the Communications Assistance to Law Enforcement Act.

The Division is also involved in implementing certain provisions of the 1996 Act. In addition, the Division administers the registration of customer premises equipment that may be connected to the public switched network.

The **Policy and Program Planning Division** is involved in most rulemaking and policy making proceedings that concern major issues of wireline telecommunications policy, other than access pricing. The Division has primary responsibility for implementing the interconnection requirements of the Telecommunications Act of 1996 and reviewing Bell Operating Company (BOC) applications to provide in-region interLATA service.

The Division also has responsibility for reviewing most petitions for preemption of state and local

telecommunications regulations filed by wireline carriers pursuant to the 1996 Act. The Division recommends rules and regulatory programs that are designed to promote competition in the provision of telecommunications services and promote unbundling of network services and features useful to consumers, other carriers, and information service providers as well as ensuring that consumers benefit from competition in the interexchange market. The Division develops rules and policies in such areas as interconnection, number portability, and the interexchange market.



Major Proceedings



Access Charge Reform (CC Docket No. 96-262)

In the *Access Charge Reform, First Report and Order*, adopted May 7, 1997, the Commission modified the interstate access rate structure rules by requiring incumbent price cap LECs to recover costs in a manner that is more reflective of the way those costs are incurred. To the extent possible, costs that do not vary with the amount of usage will be recovered through flat-rated charges, and costs that do vary with the amount of usage will be recovered through traffic-sensitive, per-minute charges. These modifications will enable telephone companies to compete in a more efficient manner and will benefit consumers through reduced long-distance rates and greater choices in telecommunications services. The *First Report and Order* also adopted a market-based approach with a prescriptive backstop to drive interstate access charges towards economic cost levels while ensuring that areas and services for which competition may not develop as quickly receive the benefits of more efficient prices.

Accounting Safeguards (CC Docket No. 96-150)

On December 24, 1996, the Commission released a *Report and Order* in CC Docket No. 96-150 to implement the requirements for accounting safeguards of the 1996 Act. This *Order* prescribed the way incumbent local exchange carriers, including the Bell Operating Companies, must allocate costs and account for transactions involving regulated telecommunications services and nonregulated services, including telemessaging, interLATA telecommunications, manufacturing, electronic publishing, alarm monitoring and payphone services, to ensure compliance with the 1996 Act.

Specifically, the *Order* concluded that the current cost allocation rules generally satisfied the 1996 Act's accounting safeguards requirements when incumbent local exchange carriers, including the BOCs, provide telemessaging, certain interLATA telecommunications and information, alarm monitoring, and payphone services on an integrated or in-house basis.

The *Order* also concluded that current affiliate transactions rules generally satisfy the 1996 Act's accounting safeguards requirements when incumbent local exchange carriers, including the BOCs, are required to, or choose to, use an affiliate to provide certain of these services permitted under the 1996 Act.

However, the *Order* adopted modifications to the affiliate transactions rules to provide greater protection against subsidization of competitive activities by subscribers to regulated services.

Alarm Monitoring Proceeding (CC Docket No. 96-152)

On March 25, 1997, the Commission released an *Order* implementing the alarm monitoring service provisions set forth in section 275 of the 1996 Act. Section 275 prohibits BOCs from providing alarm monitoring service until February 8, 2001, although it exempts BOCs that were providing alarm monitoring service as of November 30, 1995. Among other things, this *Order* concluded that an incumbent local exchange carrier provides alarm monitoring service if it operates the remote monitoring center or is engaged in the resale of alarm monitoring service. The *Order* also reviewed section 275(a)(2), which provides that a BOC that was engaged in providing alarm monitoring services as of November 30, 1995, may continue to provide such service provided that the BOC does not acquire “any equity interest in, or obtain financial control of, any unaffiliated alarm monitoring service entity.” The Commission determined that Ameritech was the only BOC that qualified for grandfathered treatment under section 275(a)(2). The Commission also determined that the interpretation of terms in section 275(a)(2) was best addressed on a case-by-case basis.

Ameritech Section 271 Application To Provide In-region, Interlata Services In Michican (CC Docket No. 97-137)

On May 21, 1997, Ameritech filed a section 271 application for authorization to provide in-region, interLATA service in Michigan. (Ameritech had previously filed, and then withdrawn, an earlier application to provide such service in Michigan.) On August 19, 1997, the Commission denied

Ameritech’s application, concluding that Ameritech had not met the statutory requirements for a BOC to enter the long distance market in a state within its local service region. The Commission found that Ameritech had satisfactorily demonstrated that it is providing access and interconnection to Brooks Fiber, an unaffiliated facilities-based provider of telephone exchange service to both residential and business subscribers (the Track A approach).

Although acknowledging Ameritech’s efforts in opening Michigan’s local exchange market to competition, the Commission concluded that Ameritech failed to demonstrate that it had fully implemented three items on the competitive checklist: (1) Ameritech failed to demonstrate that it provides competing carriers with non-discriminatory access to its operations support systems, which are systems that enable a local telephone company to provide services to its customers (such as ordering, installation, repair and maintenance, and billing); (2) Ameritech failed to show that it provides non-discriminatory interconnection to competing local exchange companies; and (3) Ameritech did not establish that it maintains 911 database entries for customers of competing local exchange providers with the same accuracy that it maintains entries for its own customers. The Commission also found that Ameritech had not demonstrated that the requested interLATA authority would be carried out in accordance with the structural and transactional requirements of section 272.

Bell Atlantic Corporation And NYNEX Corporation Merger (NSD-L-96-10)

On August 14, 1997, the Commission released a *Memorandum Opinion and Order* granting the

transfer of control of licenses and section 214 authorizations from NYNEX Corporation to Bell Atlantic Corporation pursuant to conditions. Bell Atlantic and NYNEX agreed, for example, to provide detailed performance monitoring reports to competing carriers, negotiate performance standards and enforcement mechanisms, develop and implement uniform operating support systems (OSS) covering the entire combined regions, engage in carrier-to-carrier testing of OSS systems with any carrier requesting such testing, and offer interconnection, unbundled network elements and transport and termination at rates based on forward looking economic cost.

They further agreed to provide for purchase, in conjunction with unbundled switching, shared transport offered on a minute-of-use basis, routed in the same manner as Bell Atlantic and NYNEX route their own traffic, offer an option plan that assesses non recurring charges on a recurring basis, and agreed to offer, in interconnection negotiations and arbitrations, payment mechanisms for common construction costs and interconnector-specific construction and equipment costs related to collocation that apportion costs among the incumbent LEC and collocating carriers.

Dominance/Non-Dominance Proceeding (CC Docket No. 96-149 and 96-61)

On April 18, 1997, the Commission adopted its *LEC Classification Order* in these two dockets, which revised the regulatory treatment of BOCs' and independent LECs' provision of domestic, interstate, long distance services and international services. In addition, the *LEC Classification Order* classified the BOCs' long distance affiliates as

“non-dominant” in the provision of long distance services that originate in the areas in which a BOC provides local telephone services. The *LEC Classification Order* also classified independent LECs as non-dominant in the provision of in-region long distance services, but requires independent LECs to provide their in-region long distance services through separate affiliates that satisfy the *Competitive Carrier Fifth Report and Order* requirements.

Finally, the *LEC Classification Order* classified the BOCs and independent LECs as non-dominant in the provision of interstate, domestic, long distance services that originate outside of the areas in which they provide local telephone services, and it eliminated the requirement that the BOCs and independent LECs provide those out-of-region services through separate affiliates.

Implementation Of The “Infrastructure Sharing” Provisions In The Telecommunications Act Of 1996 (CC Docket No. 96-237)

On February 7, 1997, the Commission released a *Report and Order* in CC Docket No. 96-237 to implement section 259, the infrastructure sharing provision of the Telecommunications Act of 1996. Section 259 of the 1996 Act requires the Commission to adopt regulations to ensure that incumbent local exchange carriers make available to “qualifying carriers” certain public switched network infrastructure, technology, information, and telecommunications facilities and functions.

The Commission's implementation of infrastructure sharing rules will assist qualifying carriers to obtain that infrastructure necessary to allow them to provide telecommunications and information

services in areas where they are eligible for universal service support. Petitions for reconsideration of the *Report and Order* are pending.

Implementation of “Section 273” Of The Communications Act Of 1934, As Amended By The Telecommunications Act Of 1996 (CC Docket No. 96-254)

On December 11, 1996, the Commission released a *Notice of Proposed Rulemaking* that proposed a framework intended to encourage robust competition for manufactured telecommunications products through the increased availability of network and planning information and fair and open forums for establishing equipment standards and for certifying equipment. Comments were sought on rules needed to implement and enforce safeguards in equipment manufacturing and to facilitate Bell Operating Company’s (BOC) entry into equipment manufacturing, among other issues of competition, and also sought comments on the effects of the BOCs proposed sale of Bellcore on its implementation of section 273.

Inside Wiring (CC Docket No. 88-57)

On June 17, 1997, the Commission released an *Order on Reconsideration and a Second Report and Order and Second Further Notice of Proposed Rulemaking* that further developed its rules for simple inside wiring, which is the wiring installations that a customer is allowed to connect to the telephone network. Pursuant to the Commission’s rules, a customer may connect installations of up to four access lines directly to the telecommunications network. The *Order* amends the rule for the

demarcation point, which is the point at which network ownership of telephone wiring ends and customer ownership begins, and clarifies how it applies to multi-unit premises. The *Second Further NPRM* requests comment on a proposal for enhanced wire quality standards, revision of definitions for simple and complex wiring, and location of the demarcation point.

Interexchange Proceeding (CC Docket No. 96-61)

In its *Second Report and Order* in this docket, issued October 31, 1996, the Commission determined that, pursuant to the statutory forbearance criteria in Section 10 of the 1996 Act, it should no longer require or allow nondominant interexchange carriers to file tariffs pursuant to Section 203 for their interstate, domestic, interexchange services. Several parties appealed this decision to the D.C. Circuit Court of Appeals, and the Commission’s rules requiring detariffing have been stayed. On August 20, 1997, the Commission issued the *Interexchange Reconsideration Order*, which modified the *Second Report and Order* in several respects. First, the Commission determined that carriers should have the option of filing tariffs for dial-around 1+ services (interstate, domestic, interexchange direct-dial services to which consumers obtain access by dialing a carrier’s access code) because long distance carriers cannot reasonably establish enforceable contracts with casual callers in these circumstances. The Commission also concluded that carriers may file tariffs for the first 45 days of long distance services in cases where consumers contact their local telephone companies to initiate long distance service or change their long distance carriers, because in such cases, long distance carriers may be unable

immediately to establish contracts with consumers. Further, the Commission eliminated the requirement, established by the *Second Report and Order*, that nondominant long distance carriers publicly disclose the rates and terms of their offerings because it found that the pro-competitive benefits of eliminating this requirement outweighed potential adverse effects.

Internet Notice Of Inquiry (CC Docket No. 96-263)

On December 24, 1996, the Commission released a *Notice of Inquiry (NOI)* on Usage of the Public Switched Network by Information Service and Internet Access Providers. In the *NOI* the Commission sought comment on how best to encourage the efficient offering of information services in light of new network configurations and technologies. The Commission sought comment on ways to allow more efficient transport of data traffic to and from end users in order to alleviate switch congestion caused by Internet users and on regulatory barriers that might prevent or deter provision of alternate network access arrangements for information service providers.

The Commission also invited commenters to discuss the effects of the access charge system on incumbent LEC cost recovery and the development of the information services marketplace. The Commission stated that these questions concern no less than the future of the public switched network in a world of digitalization and growing importance of data technologies. Comments in this proceeding were filed by 52 parties. The Competitive Pricing Division is responsible for conducting this proceeding.

Local Competition Proceeding “Shared Transport” (CC Docket No. 98-96)

On August 18, 1997, the Commission issued the Local Competition *Third Order on Reconsideration (Shared Transport Order)*. The *Shared Transport Order* requires an incumbent LEC to provide competing carriers with access on a shared basis to unbundled transport facilities between the incumbent LEC's switches. The *Local Competition Report and Order*, which was previously adopted in this proceeding, requires an incumbent LEC to provide its competitors with access to the same transport facilities that the incumbent uses to carry its own traffic for transport between the end office switch and the tandem switch.

In the *Shared Transport Order*, the Commission clarified that incumbent LECs are required to provide access to shared transport for all transmission facilities connecting incumbent LECs' switches -- i.e., between end office switches, between an end office switch and a tandem switch, and between tandem switches.

The Commission also concluded that incumbent LECs must permit requesting carriers that purchase shared transport and unbundled switching to use the same routing table and transport lines that the incumbent LEC uses to route and carry its own traffic.

The Commission further concluded that a requesting carrier that takes shared or dedicated transport as an unbundled network element may use such transport to provide interstate exchange access services to customers to whom it provides local exchange services.

Non-Accounting Safeguards Proceeding (CC Docket No. 96-149)

Under section 271 of the 1996 Act, a BOC may begin providing in-region interLATA services after it obtains Commission approval of the BOC's application to provide such services, based on a finding that the BOC has complied with various requirements designed to open the local exchange market to competition. Among other things, BOCs are required to comply with the accounting, separate affiliate, and nondiscrimination requirements set forth in the 1996 Act.

On December 24, 1996, the Commission released a *First Report and Order* in this docket in which it clarified and implemented the non-accounting structural separation and nondiscrimination requirements of sections 271 and 272 of the 1996 Act. On April 3, 1997, the Commission released a *Public Notice* requesting comments in connection with expedited reconsideration of its interpretation of section 272(e)(4), which relates to a BOC's provision of facilities or services to its interLATA affiliate.

On June 24, 1997, the Commission issued an Order affirming its prior conclusion that section 272(e)(4) imposes requirements on BOC provision of interLATA services that the BOCs are otherwise authorized to provide.

Policies And Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers "SLAMMING" (CC Docket No. 94-129)

On July 15, 1997, the Commission released a combined *Memorandum Opinion and Order on Reconsideration (Recon Order)* and *Further Notice of Proposed Rulemaking (FNPRM)*. The *Recon Order* resolved petitions for reconsideration and clarification of the Commission's *1995 Report and Order* concerning Letters of Agency (LOAs) (*1995 Order*). The Commission's rules require that interexchange carriers (IXCs) either obtain a signed LOA from a subscriber, or, in the case of telemarketing solicitations, complete one of four telemarketing verification procedures before submitting preferred interexchange carrier (PIC) change requests on behalf of consumers.

The *Recon Order* clarified that IXCs using LOAs must translate the LOAs into the same language as the associated oral or written promotion; incorporated the terms "interLATA" and "intraLATA," as well as "interstate" and "intrastate," in order to clarify the scope of the Commission's rules; and clarified that carriers must confirm PIC-change requests generated by telemarketing using only one of the four verification options. The *FNPRM* sought comment on the implementation of section 258, added by the 1996 Act. Section 258 makes it unlawful for any telecommunications carrier to submit or execute a change in a subscriber's carrier selection except in accordance with the Commission's verification procedures, and provides that any carrier that violates these procedures and collects charges for telecommunications service from a subscriber after such violation shall be liable to the subscriber's properly authorized carrier for all charges collected.

The *FNPRM* sought comment on, among other things, the application of the Commission's verification rules to all telecommunications carriers; the application of the verification rules to preferred carrier freezes, which prevent carrier changes unless the subscriber gives express written or oral consent to the carrier from whom the freeze was requested; the application of the verification rules to in-bound telemarketing; and the appropriate subscriber-to-carrier liability, carrier-to-carrier liability and carrier-to-subscriber liability.

Price Cap Performance Review For Local Exchange Carriers Fourth Report and Order (CC Docket No. 94-1)

Price Cap regulation creates incentives for incumbent local exchange carriers (LECs) to operate more efficiently and to introduce innovative new services in order to maximize their profits. Under price cap regulation, rates are capped by a price cap index (PCI) based on a formula that limits maximum rate changes in any one year to the rate of inflation (measured by the Gross Domestic Product Price Index), minus an "X-Factor." Previously, LECs were permitted to choose one of three X-Factors -- 4.0, 4.7, and 5.3 percent.

Incumbent LECs electing either of the two lower X-Factors were required to share, or give back to their customers, a portion of their earnings above certain levels. LECs earning below certain levels were permitted to make a low-end adjustment to raise their PCIs. In the *Price Cap Fourth Report and Order* released on May 21, 1997, the Commission in pertinent part adopted a single X-Factor of 6.5 percent.

The Commission also eliminated sharing obligations, but retained the low-end adjustment mechanism. The Commission determined that the 6.5 percent X-Factor better reflects the LECs' historical productivity growth, and that elimination of sharing is warranted because sharing blunts LECs' incentives to become more efficient.

Revocation Proceeding Against Carriers Alleged To Have Violated Unauthorized Changes Of Consumers Long Distance Carriers "Slamming" Rules (CC Docket No. 97-144).

On July 13, 1997, the Commission released an *Order to Show Cause and Notice of Opportunity for Hearing (Fletcher Order)* taking unprecedented action against companies owned by Daniel Fletcher (Fletcher Companies). The Fletcher Companies had been the subject of over 1,000 consumer complaints, most alleging the unauthorized conversion of a consumer's long distance service (slamming).

In addition to the alleged slamming incidents, the Fletcher Companies refused to accept or respond to Official Commission Notices of Informal Complaint, failed to designate agents for the receipt of official notices, failed to provide legitimate business addresses, and failed to file tariffs.

The *Fletcher Order* designated for hearing the issue of whether the common carrier operating authority of the Fletcher Companies should be revoked. In addition, the *Order* directed the principals of the Fletcher Companies to show cause why they should not be ordered to cease and desist from any further provision of interstate common carrier services without the prior consent of the Commission.

The *Fletcher Order* protects consumers from carriers that are either unwilling or unable to conduct lawful common carrier operations. It also gives notice to the entire industry that unlawful activities will not be tolerated.

SBC Section 271 Application To Provide In-Region, Interlata Services In Oklahoma (CC Docket No. 97-121)

On April 11, 1997, SBC filed a section 271 application for authorization to provide in-region, interLATA service in Oklahoma. On June 26, 1997, the Commission denied SBC's application, concluding that SBC had not met the statutory requirements to enter the long distance market in a state within its local service region.

Specifically, the Commission found that SBC was not eligible to proceed under Track A because it had failed to demonstrate that there was a competing facilities-based provider of telephone exchange service to both residential and business subscribers in Oklahoma. The Commission also concluded that SBC was not eligible to pursue in-region, interLATA entry in Oklahoma under Track B because it had received requests from potential competitors to connect to its network that, if implemented, would lead to the provision of the type of competing local telephone service described in Track A.

Telemessaging And Electronic Publishing Proceeding (CC Docket No. 96-152)

On February 7, 1997, the Commission released the *Telemessaging/Electronic Publishing Order*, which

implemented the non-accounting separated affiliate, joint marketing, and nondiscrimination requirements of section 274 and the nondiscrimination safeguards of section 260. The 1996 Act sets forth specific statutory requirements for BOC provision of electronic publishing and incumbent LEC provision of telemessaging services.

Pursuant to section 274, a BOC that chooses to provide electronic publishing services must do so either through a "separated affiliate" or an "electronic publishing joint venture" and must comply with certain joint marketing restrictions and nondiscrimination requirements. Section 260 establishes nondiscrimination requirements applicable to all incumbent LECs providing telemessaging services.

Also on February 7, 1997, the Commission released a *Further Notice of Proposed Rulemaking* seeking comment on the meaning of "control" and "financial interest" for the purpose of determining what constitutes BOC provision of electronic publishing services and on certain aspects of section 274(b)(3)(B). That provision requires BOCs and their separated affiliates or electronic publishing joint ventures "to carry out transactions pursuant to written contracts or tariffs that are filed with the Commission and made publicly available."

Telephone Number Portability (CC Docket No. 95-116)

To remove the barrier to local competition caused by the inability of customers to retain their telephone numbers when changing local service providers, section 251(b)(2) of the amended 1934 Communications Act requires all LECs, both incumbents and new entrants, "to provide, to the extent technically feasible, number portability in

accordance with requirements prescribed by the Commission.” To prevent the cost of providing number portability from itself becoming a barrier to local competition, section 251(e)(2) requires that “[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.” The Commission released a combined *First Report and Order and Further Notice of Proposed Rulemaking* in July 1996 to begin implementing number portability. In the *Order*, the Commission directed LECs to use currently available techniques such as call forwarding to offer an interim form of number portability. The call forwarding solution, however, requires two telephone numbers for each customer who changes carriers. Consequently, the *Order* requires carriers to implement a long-term database solution that avoids using two telephone numbers for each customer.

On March 6, 1997, in the *First Memorandum Opinion and Order on Reconsideration*, the Commission generally affirmed, with a few modifications, its rules governing the deployment of local telephone number portability earlier set forth in the *First Report and Order* in this docket. Telephone number portability refers to the ability of residential and business consumers to retain their telephone numbers when switching from one local telephone service provider to another. The provision of local number portability is one of the obligations that the 1996 Act imposed on all local exchange carriers in order to promote a pro-competitive, deregulatory national telecommunications policy framework.

Congress recognized that number portability will lower barriers to entry and promote competition

in the local exchange marketplace by enabling customers to switch to a new local service provider without having to change their telephone numbers.

Once number portability is implemented, consumers will be able to select a local telephone company based on service, quality, and price, rather than on a desire to keep a particular telephone number. On August 18, 1997, the Commission adopted a number of recommendations made by the North American Numbering Council regarding, among other things, the technical and operational standards for the provision of number portability by wireline carriers.

Toll Free Service Access Codes (CC Docket No. 95-155)

On April 11, 1997, the Commission released a *Second Report and Order* that adopted rules to promote the efficient use of toll free numbers and to ensure that numbers are distributed in a fair, orderly, and equitable manner. The Commission also found that warehousing, hoarding, and brokering of toll free numbers are contrary to the public interest and subject to sanction by the Commission.

Universal Service (CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72)

On May 8, 1997, the Commission released the *Universal Service Report and Order* addressing the universal service provisions of the 1996 Act. Included among the issues were: the principles of universal service, including competitive neutrality; services to be included within the definition of

universal service; the influence of affordability on subscribership; the criteria for designating telecommunications carriers eligible for universal service support; service areas and unserved areas; support for both rural and non-rural high cost local exchange carriers; universal service support for low income consumers; issues unique to insular areas; methods of supporting and enhancing deployment of telecommunications services to schools and libraries and rural health care providers; interstate subscriber line charges and carrier common line charges; and administration of universal service programs.

On July 18, 1997, the Commission released a *Further Notice of Proposed Rulemaking* seeking comment on the mechanism the Commission should adopt to estimate the forward-looking economic costs that non-rural carriers would incur to provide universal service in rural, insular, and high cost areas. The Commission sought comment on the platform design and input values it should adopt in the selected mechanism to estimate the cost of each of the elements of the telephone network necessary for non-rural LECs to provide universal service to high cost areas.

On July 18, 1997, the Commission released a *Report and Order* in CC Docket No. 97-21 and *Second Order on Reconsideration* in CC Docket No. 96-45 directing the National Exchange Carrier Association, Inc. (NECA) to create an independently functioning not-for-profit subsidiary (the Universal Service Administrative Company) through which it would administer temporarily certain portions of the federal universal service support mechanisms. The Commission determined that the USAC Board of Directors will consist of 17 members representing contributors to and beneficiaries of the universal service support mecha-

nisms, as well as a representative of state telecommunications regulators. As a condition of its appointment as temporary Administrator, the Commission further directed NECA to create the Schools and Libraries Corporation and Rural Health Care Corporation to perform all functions associated with administering the schools and libraries and rural health care programs, respectively, except those directly related to billing and collecting universal service contributions and disbursing support. The Commission also established requirements by which the Commission will calculate and approve the quarterly universal service contribution factors.

On August 15, 1997, the Commission released an *Order* directing the National Exchange Carrier Association to perform certain functions on behalf of the universal service administrative companies to the extent that the performance of such functions was necessary to meet the January 1, 1998, starting date for the new universal service support mechanisms.

On September 4, 1997, the Commission issued a *Further Notice of Proposed Rulemaking* addressing whether the \$0.53 presubscribed interexchange carrier charge for Lifeline customers who elect toll blocking should be waived and whether these waived charges should be supported by the low income program of the federal universal service support mechanisms and recovered in a competitively neutral manner through contributions from all telecommunications carriers.



Cable Services Bureau

Overview



During the past fiscal year, the Cable Services Bureau continued to work on a number of major proceedings related to the 1996 Telecommunications Act. Increasing competition in the markets for the delivery of multi-channel video programming continues to be a major objective of the Cable Services Bureau. The Cable Services Bureau was created in 1993 following the passage of the 1992 Cable Act and has worked since that time on issues related to the cable television industry and other multi-channel video programming providers. In addition to promoting competition, other important policy areas include: promoting the availability to the public of cable television service; ensuring growth and development in the cable industry; and ensuring reasonable rates for consumers in areas that do not have competition to the cable system.

The Bureau provides a single point-of-contact for consumers, community officials and the industry for cable related issues pending before the Commission. Other duties include policy and rulemaking in cable television and enforcement of the cable television related provisions of the 1996 Telecommunications Act and the 1992 Cable Act.

The Bureau continues to receive and process cable rate complaints. Since the revised cable rate complaint process began in February 1996, the Bureau has received over 300 valid rate complaints from communities nationwide. Other regular filings to the Bureau included applications to operate open video systems (OVS) and area of dominant influence (ADI) cases in-

volving “Must Carry” disputes between broadcast television stations and cable system operators

The Cable Services Bureau is organized into four divisions: Policy and Rules, Financial Analysis and Competition, Consumer Protection and Competition, and Engineering and Technical Services. The Bureau also handles public inquiries and inquiries from other governmental offices through the Office of Government and Public Outreach.

During FY97 the Bureau’s customer service assistants responded to 20,460 telephone inquiries and 8,723 informal written inquiries and complaints concerning cable service. Additionally, the Bureau received more than 40,000 “hits” on its Internet homepage (which was created in July 1996) and approximately 225 e-mail messages per month from persons requesting information.

In FY97 the Bureau received and responded to more than 850 written inquiries from Members of Congress and staff concerning the cable television industry and the marketplace for multichannel video programming services. The Bureau also responded to hundreds of telephone inquiries from Congress on on these and related matters. Many of the inquiries from Members of Congress involved provisions of the Telecommunications Act of 1996 and the rules the Commission has adopted over the past 18 months to implement the new law.

Major Proceedings



TV Ratings (CS Docket No. 97-55)

In FY97 the Commission issued a *Public Notice* seeking comment on a joint proposal submitted by the National Association of Broadcasters, the National Cable Television Association and the Motion Picture Association of America describing a voluntary system for rating video programming (the “industry ratings proposal”). The Commission’s *Public Notice* was issued pursuant to Section 551 of the Telecommunications Act of 1996, which directs the Commission to determine whether video programming distributors have developed an acceptable TV ratings system for use with the so-called “V-chip.”

The Commission received formal written comments and hundreds of informal comments (both via U.S. mail and via a dedicated e-mail address) from interested parties regarding the industry ratings proposal. The industry TV ratings proposal was subsequently modified and the Commission issued another *Public Notice* in FY97 seeking comment on the revised proposal.

Commercial Leased Access (CS Docket No. 96-60)

In FY97 the Commission adopted an *Order* revising its cable commercial leased access rules. The revised rules were promulgated pursuant to Section 612 of the Communications Act, as amended by the 1992 Cable Act, which establishes a leasing framework to provide access to cable channel capacity by parties unaffiliated with the cable operator.

A key feature of the revised rules is the adoption of the “average implicit fee” formula for calculating the maximum reasonable rate for leased access programming that is carried on a programming tier. The average implicit fee for tiered services represents the average amount non-leased access programmers effectively pay the operator for carriage. The adoption of the average implicit fee should result in lower rates for leased access programmers, although the Commission’s goal was to establish a maximum reasonable rate, not necessarily to lower the rate.

The *Order* also grants leased access programmers the right to demand access to a programming tier with more than 50% subscribership. In addition, part-time programmers are protected from excessive rates because cable operators are required to prorate the daily leased access rate for part-timers (time-of-day-adjustments are permitted, but the total cannot exceed the daily rate).

However, the disruption of existing non-leased access programming by intermittent part-time programming is minimized because an operator need not open a second channel for part-time leased access until the first channel carries at least 18 hours

of part-time programming per day (unless a part-time programmer is willing to take eight hours a day every day for a year).

Competition in the Video Programming Delivery Market (CS Docket No. 97-141)

The Commission is required to submit an annual report to Congress “on the status of competition in the market for the delivery of video programming.” The Commission adopted a *Notice of Inquiry* designed to solicit comments and information to be used in conjunction with publicly available information and filings submitted in relevant Commission proceedings to prepare the fourth annual report. The Commission plans to submit the report to Congress by the end of 1997.

The *Notice* invited commenters to submit data, information and analysis regarding the cable industry, existing and potential competitors to cable systems, prospects for increasing competition in markets for delivery of video programming, technical advances that affect competition, and industry and market structure.

In the *Notice*, the Commission sought comment to update its assessment of the provisions of the 1996 Act that were intended to remove barriers to competitive entry and to establish market conditions that promote competitive firm rivalry in video distribution markets. Commenters were asked to identify and comment on existing statutory provisions, laws and regulations they perceive as restraining competition or inhibiting development of robust competition in markets for the delivery of video programming. The *Notice* also requested information to examine competition in local markets through case studies of local markets where

cable operators faced actual competition from multichannel video programming distributor entrants. As provided in the Commission's July 1996 *Report to Congress* concerning Video Programming Accessibility, the *Notice* solicited information on methods and schedules for providing greater accessibility to video programs for persons with visual disabilities.

Closed Captioning of Video Programming (MM Docket No. 95-176)

The Commission adopted a *Report and Order* establishing rules for closed captioning of video programming as required by the 1996 Act. The 1996 Act generally directed the Commission to adopt rules and implementation schedules for captioning of video programming, regardless of distribution technology, to ensure access to video programming by people with hearing disabilities. The 1996 Act also authorized the Commission to exempt classes of programming for which the provision of closed captioning would be economically burdensome. The rules adopted by the Commission will increase the amount of closed captioned programming available to the more than 22 million Americans with hearing disabilities.

TCI Cablevision v. City of Troy, MI (FCC 97-331)

In July 1996 TCI Cablevision of Oakland County, Inc. (TCI) filed a petition seeking relief against the City of Troy, Michigan for violations of the 1996 Telecom Act.

The Commission found that Troy violated the Act by placing a telecommunications condition in its grant of cable construction permits. The Commis-

sion held that Troy could not place a condition related to a cable operator's provision of telecommunications services in a cable permit issued pursuant to its cable franchising authority. Troy's insistence on including its telecommunications condition in a cable permit impermissibly mixed these separate spheres.

The Commission declined to resolve TCI's challenges under section 253 of the Act to particular provisions of the Troy Ordinance because its decision addressing TCI's claims under section 621(b)(3)(B) resolved the actual controversy between the parties.

In light of this circumstance, and because TCI had stated that it had no intention of entering the telecommunications markets in Troy, the Commission found that the Troy Telecommunications Ordinance no longer directly affected the operations of TCI within the City. The Commission, however, noted how redundant and potentially inconsistent levels of regulation of telecommunications services and service providers may deter or discourage competition. It reiterated the shared duty of all levels of government under the Telecommunications Act of 1996 to encourage the development of competitive telecommunications markets.

Pole Attachments (CS Docket No. 97-151)

The Commission adopted a *Notice of Proposed Rulemaking* seeking comment on proposed revisions to the Commission's rules relating to the maximum just and reasonable rates utilities may charge for attachments made to a pole, duct, conduit or right-of-way. The impetus of the *Notice* was a Petition for Clarification, or in the alternative, a waiver of the formulas for computing maxi-

imum reasonable pole attachment rates filed by Southwestern Bell (SWB). In its Petition, SWB asserted that in certain cases application of the current pole attachment formula resulted in a negative rate. The *Notice* sought comment as to whether the current pole attachment formula should be modified or adjusted to eliminate certain anomalies and rate instabilities that could cause a negative pole attachment rate.

The Commission also sought comment on other aspects of the existing pole attachment formula that certain parties believed required modification. In addition, the Commission sought comment on revising its current pole attachment formula to reflect the change made in 1988 to replace the Part 31 accounting system with the Part 32 Uniform System of Accounts. Finally, the Commission sought comment on a proposed conduit methodology.

In continuing its implementation of the 1996 Telecom Act, the Commission adopted a *Notice of Proposed Rulemaking* to implement Section 703(e) by establishing a new methodology for pole attachment rates for various providers of telecommunications services. The 1996 Act created a distinction between pole attachments used by cable systems solely to provide cable service and pole attachments used by cable systems or by telecommunications carriers to provide any telecommunications service.

Section 703(e) of the 1996 Act prescribed a new methodology for determining pole attachment rates for telecommunication carriers. The Commission must prescribe the new methodology for telecommunications carriers within two years of enactment of the 1996 Act, with these rules becoming effective five years from enactment. This *Notice* seeks

comment regarding implementation of a methodology to ensure just, reasonable, and nondiscriminatory pole attachment and conduit rates for telecommunication carriers.

Marcus Cable Associates, L.P. v. Texas Utilities Electric Company

The Bureau released an *Order and Declaratory Ruling* which found that several sections of Texas Utilities' pole attachment agreements with cable companies were anti-competitive because they hindered the cable companies' development of two-way service offerings. Consequently, these sections were terminated in all of Texas Utilities' pole attachment agreements.

Cable Rate Complaints

The Bureau continued its efforts at resolving cable programming services tier ("CPST") rate complaints this past year. The Telecommunications Act of 1996 and FCC rules require that complaints against the CPST rate be filed with the Commission by a local franchising authority (LFA) that has received subscriber complaints. An LFA may not file a CPST rate complaint unless, within 90 days after such increase becomes effective, it receives more than one subscriber complaint.

Filing a valid complaint triggers an obligation on behalf of the cable operator to file a justification of its CPST rate. The 1996 Act requires that the Commission issue a final order resolving the complaint within 90 days of its receipt. If the Commission finds the rate to be unreasonable, it determines the correct rate and any refund liability.

During this past year the Bureau received 336 complaints filed by local franchise authorities. In 70% of these cases, the operator's rates were found to be reasonable. In the remaining 30% of cases, the Bureau ordered a rate reduction and refund. The Bureau also continues to process complaints filed prior to the passage of the 1996 Act. In this past year, the Bureau reviewed over 2,282 rate complaints resulting in 448 rate decisions being issued. The Bureau also resolved additional complaints through negotiated settlement of rate complaints with major cable operators.

The Bureau's efforts in this regard continued to reduce administrative burdens on all parties and also provided subscribers with immediate refunds in many instances. The Commission, through the use of social contracts and rate resolutions, has resolved or proposed to resolve rate complaints affecting 25.4 million subscribers. To date, subscriber refunds ordered or proposed to be paid as a result of social contracts and resolutions total approximately \$54.4 million.

Consistent with the Commission's adoption of social contracts and rate resolutions with major cable operators, the Commission this year approved two additional rate resolutions with Adelphia and Viacom. The Commission currently has two additional resolutions pending which if adopted, will result in \$9.5 million in refunds to 1.3 million subscribers. These resolutions provide for a non-adjudicatory solution to rate complaints, providing certainty to operators and speedy refunds to consumers.

Highlights of the Resolutions adopted during this fiscal year include:

- Adelphia which covered 523,000 subscribers, provided for \$2.5 million in refunds and resolved 64 rate complaints.
- Viacom which covered 1.8 million subscribers, provided for \$855,000 in refunds and resolved 186 rate complaints.



Compliance and Information Bureau

Overview



The Compliance and Information Bureau (CIB) is one of the FCC's primary points of contact with the public. CIB, through its headquarters staff and various field offices, informs and educates licensees and permittees of important or new regulations and ensures compliance with FCC rules. It advises consumers about measures they can take to combat fraud and other illegal practices in the provision of communication services. It informs the Commissioners and other Bureaus about telecommunications problems and the needs of users and it uses its technical expertise to solve problems in the communications environment.

The Bureau carries out its programs to serve the public and the Commission through 16 district offices, nine resident agent facilities, a toll-free National Call Center, and 14 remotely controlled monitoring and radio direction-finding sites located throughout the United States. Field office activities are directed by three regional offices. The Bureau's radio direction-finding network is controlled from its Columbia, MD, Operations Center. CIB also maintains a Communications and Crisis Management Center at its Washington, DC, headquarters.

The Bureau's field offices are the vital link with the public, licensees, and other users of the radio spectrum. Program and policy development for the Bureau is the responsibility of the Bureau's Divisions and other Offices located at the FCC's headquarters in Washington, DC.

The **Compliance Division** administers the compliance program. The Compliance Division staff in Washington is composed of the Investigations Group and the Legal Services Group. The compliance program involves field office and division staff activities such as inspecting radio stations for compliance with the Communications Act and the Commission's Rules, investigating the unlicensed or unauthorized operation of radio stations, resolving radio frequency interference problems not suitable for private sector resolution, and providing assistance to public safety and law enforcement agencies experiencing radio communications problems. CIB pursues administrative sanctions, as well as civil and criminal court actions, against persons and entities that violate the Communications Act and/or the Commission's Rules. During FY97 the Division, with the assistance of CIB's field offices, conducted a number of significant compliance and fact-gathering inquiries, as well as investigative initiatives for other Commission Bureaus and Offices.

During FY97 the **Emergency Alert System (EAS) Staff** started work on the Working Group on Natural Disaster Information Systems (NDIS) for the Office of Science and Technology Policy (OSTP). Its participation in this project will continue through FY98. The EAS headquarters staff along with the district offices staff participated in over 100 EAS workshops and seminars in FY97. Workshop participants included broadcasters, cable operators, federal, state and local officials. Many of the workshops were hosted by FCC appointed State EAS Chairs who work voluntarily in developing EAS plans for their state and community. In FY97 CIB reviewed 46 State/Territory and 50 local EAS plans. CIB developed AM/FM and TV EAS Handbooks as training tools for broadcasters in using

EAS. The CIB EAS Staff issued one loan agreement and nine terminations in the Broadcast Station Protection Program in FY97 with an equipment value of over \$100,000. The staff fulfilled over 4,000 requests for EAS information and materials.

The **National Call Center (NCC)** provides a central location for timely, up-to-date, and accurate information on FCC matters with the aid of state-of-the-art technological tools. The Commission established the National Call Center as a toll-free, incoming call management system staffed by consumer and communications industry specialists. In FY97 the NCC handled more than 500,000 customer inquiries. The highest volume of calls received during FY97 concerned potential violations of telephone consumer protection laws, including the unauthorized switching of residential long distance telephone service, or "slamming." Large numbers of calls also involve interference complaints and questions, the placement of direct broadcast satellite dishes, and the rates and services offered by cable television system operators.

The **Technology Division** supports the Bureau's compliance and public information functions through the Equipment and Standards Group (ESG) in Washington, DC, and the Equipment Development Group (EDG) in Powder Springs, GA. ESG establishes and reviews technical measurement procedures to determine compliance with FCC regulations and to provide regulatory feedback. It also develops the technical specifications for equipment used by FCC field offices, provides equipment and facilities used by those offices and analyzes and interprets data collected by the field offices to improve CIB's operational effectiveness. EDG designs and constructs specialized equipment

for field use that cannot be purchased “off the shelf” or economically contracted for in small quantities. It also has a patent program to protect the Commission’s investment in unique devices that have been developed and patented by EDG.

In FY97 the Bureau completed construction and implementation of a new remotely controlled Interferometric Radio Direction Finding System at monitoring stations that were formerly staffed by Bureau personnel. Applications for patents for some aspects of the technical design of this system are being filed. The Bureau also began design and installation of a fixed automatic DF system (FADF) for the Washington, DC, metropolitan area. This system will allow the Bureau to locate interference and resolve problems in the VHF and UHF frequency range that threaten important communications channels. The ESG conducted studies regarding potential interference to the Bureau’s direction-finding network on over 100 license applications from the Mass Media Bureau and other Bureaus impacting on CIB’s radio signal analysis capabilities, and on spectrum noise floor issues. ESG also arranged to have FADF systems built by a private contractor to meet demand for FADF systems by other agencies outside the Commission.



Major Proceedings



Civil Monetary Penalties, Amendment of Section 1.80 (CI Docket No. 95-6)

In response to the Debt Collection Improvement Act of 1996, Commission adopted an order on January 3, 1997, that adjusted the statutory maxima for civil monetary penalties assessed by the Commission.

Reminder to Small Businesses about Availability of Information and Guidance from the FCC, released March 28, 1997.

In response to the enactment of the Small Business Regulatory Enforcement Fairness Act (SBREFA) that required federal agencies to make information more readily available to small businesses and to consider the impact fines would have on small entities, the Commission issued a press release explaining the manner in which the public can obtain information about virtually any aspect of the Commission, including regulations and enforcement policies, citing the National Call Center.

Forfeiture Policy Statement and Guidelines, Amendment of Section 1.80

On June 19, 1997, the Commission adopted a *Report and Order* issuing a revised monetary forfeiture policy statement and guidelines for assessing forfeitures and an amendment to the rules to incorporate these guidelines. The Policy Statement reflects the increase in the maximum dollar amounts for forfeitures that the Commission could impose under Section 503(b) and under other sections of the Communications Act.

Order Amendment to Part 1, Section 7 Radio Broadcasting to Cuba Act (Radio Marti)

Adopted an *Order* July 29, 1997, to remove Sections 1.1701 through 1.1712 of the Commission's Rules which implemented Section 7 of the Radio Broadcasting to Cuba Act. Section 7 provided for a specific four-year compensation program for U.S. broadcast stations receiving interference from Cuba. The rules were eliminated because Congress made no further authorization or appropriation of funds for Radio Marti after the initial appropriation in 1984.

Emergency Alert System (EAS) (FO Docket Nos. 91-301 and 91-171)

On September 24, 1997, the Commission adopted a *Second Report and Order* regarding the Emergency Alert System (EAS). The *Second Report and Order* modified the EAS as it applies to cable systems and declined to adopt an exemption from the requirements of the EAS based on the size of a cable system, because such an exemption would be inconsistent with the FCC's statutory mandate.

The *Second Report and Order* did, however, adopt rules that will permit certain small cable systems either to provide the national level EAS message on all programmed channels or to install EAS equipment. Additionally, the Commission provided a phase-in period with additional time for cable television operators to comply with these and other EAS requirements. Additionally, the *Second Report and Order* adopted rules in response to issues raised by persons with hearing disabilities that require larger cable systems to provide both audio and video messages on all channels.

In adopting the item the Commission stated that the requirements of existing local franchise agreements for special warning systems will not be preempted by the EAS so long as they do not conflict with the EAS requirements under Commission rules. Additionally, the Commission encouraged local authorities to use the EAS to alert the public of emergency situations. The Commission encourages all public service providers to voluntarily participate in EAS.



International Bureau

Overview



The mission of the International Bureau is to promote efficient, reasonably priced, widely available, reliable, timely, innovative and high quality domestic and global communications services.

In pursuit of this mission, the Bureau develops, recommends and administers policies, standards, procedures and programs for the authorization and regulation of international telecommunications facilities and services and the licensing of domestic and international satellite systems. The Bureau advises and recommends to the Commission, or acts for the Commission under delegated authority, in the development and administration of international telecommunications policies and programs.

The Bureau consists of three Divisions.

The **Planning And Negotiations Division** directs and coordinates, in consultation with other Bureaus and Offices as appropriate, Commission negotiations with Mexico, Canada and other countries regarding international agreements. The Division represents the Commission in international conferences and meetings involving radio frequency assignment related matters and ensures that Commission regulations, procedures and frequency allocations comply with international and bilateral agreements. The Planning and Negotiations Division consists of two

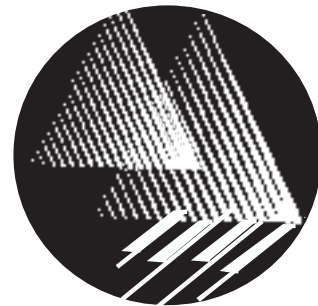
branches: Negotiations Branch and Notifications Branch. The Division is also responsible for implementation of all notifications and coordinations provisions adopted as a result of these international conferences.

The **Satellite And Radiocommunication Division** deals with policies, rules, procedures and standards for licensing and regulating satellite space and earth station facilities, both domestic and international. It undertakes Commission responsibilities under the Communications Satellite Act for the oversight of Comsat as the U.S. signatory to INTELSAT and Inmarsat. The Division represents the Commission in international conferences and meetings involving radio-related telecommunications matters such as satellites, spectrum allocation, standards, broadcasting, aviation, maritime and safety of life at sea in the International Telecommunication Union (ITU) and other international fora. The Satellite and Radiocommunication Division consists of three branches: Radiocommunication Policy Branch, Satellite Policy Branch and Satellite Engineering Branch.

The **Telecommunications Division** deals with the authorization and regulation of international telecommunications facilities and services. It represents the Commission at international conferences and meetings involving non-radio related telecommunications matters. The Division directs and coordinates Commission participation in bilateral telecommunications discussions and provides assistance in telecommunications trade negotiations. The Telecommunications Division consists of two branches: Policy and Facilities Branch and Multilateral and Development Branch.

The International Bureau maintains a public reference center containing all non-docketed public

files of Bureau related matters, enabling the public to satisfy all international and satellite reference needs at one central location. The public reference center is located at 2000 M Street, N.W., Room 102, Washington, D.C. 20554. Types of documents available include: Applications and authorizations (International Section 214; international earth station; domestic and international space stations; domestic and international earth stations; direct broadcast satellite; cable landing; international public fixed radio and recognized private operating agency); released Intelsat and Inmarsat documents; international treaties and agreements; international operating agreements; International Telecommunications Union (ITU) publications; tariff and accounting rate information.



Major Proceedings



International Accounting Rate Flexibility Order (CC 90-337, Phase II)

On November 26, 1996, the Commission adopted a *Fourth Report and Order* that permitted flexibility in its accounting rate policies. The new rules permit U.S. carriers to enter into more economically efficient arrangements for terminating their international traffic where competitive conditions exist on the foreign end of an international route. U.S. carriers can negotiate alternative international settlement payment arrangements that deviate from the requirements of the Commission's International Settlements Policy with any foreign correspondent in a country that meets the effective competitive opportunities (ECO) test adopted by the Commission last year or, under certain circumstances where the ECO test is not met.

Foreign Carrier Participation Notice (IB Docket Nos. 97-142, 95-22)

On June 4, 1997, the FCC adopted a *Notice of Proposed Rulemaking (NPRM)* that proposes a policy

that would liberalize entry into the U.S. telecommunications market for most foreign-affiliated carriers. The *NPRM* proposes to remove the equivalent competitive opportunities (ECO) test with an open entry standard for applicants from WTO Members. These applicants would no longer be required to demonstrate that their markets offer effective competitive opportunities in order to: (1) obtain Section 214 authority to provide international facilities-based, resold switched and resold non-interconnected private line services; (2) receive authorization to exceed the 25 percent indirect foreign ownership benchmark in Section 310(b)(4) of the Communications Act for wireless licenses; or (3) receive submarine cable landing licenses. The Commission also proposes to remove the equivalency test, a standard similar to the ECO test, for carriers seeking to provide switched services over private lines between the United States and WTO Members. The *NPRM* also proposes, however, to retain safeguards to prevent foreign carriers with market power from distorting competition in the U.S. market. In addition, the Commission proposes to retain the authority to deny or condition such foreign carrier if required by the public interest.

International Settlement Rate Benchmarks Order (IB Docket No. 96-261)

On August 7, 1997, the Commission adopted a *Report and Order* that significantly reduced the cost of international long distance telephone service by setting new, lower benchmarks on international settlement rates. The *Order* required U.S. carriers to comply with the following benchmark rates: 15 cents per minute for upper income countries; 19 cents per minute for upper middle and lower

middle income countries; and 23 cents per minute for lower income countries. The Commission based these benchmark rates on foreign carriers' publicly-available tariff rates and information published by the International Telecommunication Union and on each country's economic development category. To ensure a gradual and smooth transition to the benchmark settlement rates, the Commission has adopted five transition periods in which settlement rates are to be reduced to the applicable benchmark rate.

The transition periods correspond to the four income classifications used to calculate the benchmarks, with an additional category for settlement rates for countries that have teledensity — lines per one hundred inhabitants — of less than one. Because the subsidies embedded in current settlement rates could create competitive distortions in the U.S. market for international service, the *Order* imposes certain post-entry conditions in carriers' service authorizations to address these potential distortions.

The Commission emphasizes that it may refrain from enforcing its *Order* if a satisfactory multilateral solution can be reached that will produce substantially equivalent results in a timely manner.

DARS (Digital Audio Radio Service) (IB Docket No. 95-91)

In April 1997 the Commission officially announced the winners of the satellite Digital Audio Radio Service (SDARS) auction held on April 1-2, 1997. The service is expected to provide continuous nationwide radio programming with compact disc (CD) quality sound. The Commission issued a *Public Notice* on April 5, 1997, that sets forth in-

formation regarding post-auction application and payment procedures. The winner of the first license is Satellite CD Radio, Inc. with a bid of \$83,346,000. The winner of the second license, with a bid of \$89,888,888, is American Mobile Radio Corporation (AMRC).

Both winners submitted further payments to the Commission, bringing their total deposits up to 20 percent of their winning bids. Satellite CD Radio Paid \$13,669,200 and AMRC paid \$14,977,777. Both applicants filed amendments to their applications on May 16 and these were put on *Public Notice*. Primosphere, an unsuccessful DARS bidder, filed petitions to deny on both applications.

Ka-Band Satellite System (CC Docket No. 92-297)

The Ka-band generally refers to the 27.5-30.0 (uplink) and 17.7-20.2 GHz (downlink) bands. In July 1996, the Commission released a *Report and Order* adopting a band segmentation plan for the Ka-band. The band plan accommodates both satellite and terrestrial systems. Satellite systems planned for the Ka-band will provide broadband interactive services such as: internet access; videoconferencing; telemedicine; and multimedia services. The Commission authorized one non-geostationary satellite orbit (NGSO) fixed-satellite service (FSS) system in March 1997. In May 1997, the Commission adopted an orbital assignment plan for geostationary satellite orbit (GSO) FSS systems proposed in the Ka-band and authorized 13 GSO FSS systems.

Mobile Satellite Services (MSS) Below 1 GHz (Little Leos)

Little LEO (low earth orbiting) service is a non-voice, non-geostationary, mobile satellite service operating in spectrum below 1 GHz. Licensees will be able to provide two-way data services including emergency location, environmental data collection, vehicle tracking, and time-sensitive business and personal data communications services. There are two existing licensees in the service. On October 29, 1996, the Commission released a *Notice of Proposed Rulemaking* proposing rules and policies to award additional licenses in the second processing round.

The *Notice* proposed to award licenses to up to three applicants; limit the participants in the second processing round to applicants who are not existing licensees; and implement technical rules including the time-sharing of spectrum. The *Notice* also sought comment on conducting an auction, to resolve mutual exclusivity.

In August 1997, GE-Starsys, a first round Little LEO licensee, returned its license to the Commission and Orbital Sciences Corporation, parent of first round Little LEO licensee Orbcomm, acquired CTA, a second round applicant. The return of this license freed up additional spectrum for use in the second processing round. Two other second round applicants, CTA and GE Americom, have withdrawn from the second processing round. The five remaining second round applicants (Orbcomm, VITA, Leo One, Final Analysis and E-Sat) agreed to a spectrum sharing plan on September 22, 1997.

WTO/DISCO II (IB Docket No. 96-111, CC Docket No. 93-23).

Under the World Trade Organization (WTO) Agreement on Basic Telecommunications (WTO Basic Telecom Agreement), concluded February 15, 1997, 69 countries including the United States committed to open their markets for basic telecommunications services. These countries account for over 95 percent of global telecom revenues. Fifty countries specifically committed to open their markets for satellite services.

On July 17, 1997, the Commission issued a *Further Notice of Proposed Rulemaking (FNPRM)* in the Domestic and International Satellite Consolidation (DISCO II) proceeding. In May 1996, the Commission adopted the initial DISCO II *Notice of Proposed Rulemaking (NPRM)*. The DISCO II *NPRM* proposed to evaluate applications based on various public interest factors: the effect of the proposed service on competition in our market (the “effective competitive opportunities” or “ECO-Sat” test), as well as national security, foreign policy, law enforcement and trade policy considerations.

The WTO Basic Telecom Agreement, which takes effect January 1, 1998, and its framework, the General Agreement on Trade Services (GATS), should fundamentally improve conditions of competition in satellite services worldwide. The DISCO II *FNPRM* seeks comment on how the Commission should revise its market access rules consistent with the WTO Basic Telecom Agreement and the goal of promoting a competitive satellite market in the United States.

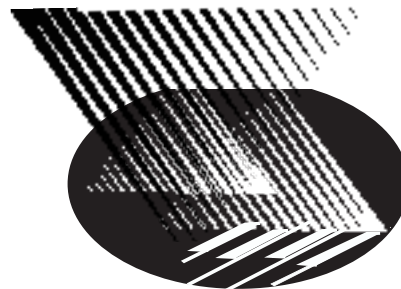
The *FNPRM* proposes to forego an ECO-Sat test for requests to serve the U.S. using satellite sys-

tems licensed by WTO member countries to provide covered services within the U.S. or between the U.S. and other WTO countries. Opposing parties would have the burden of demonstrating that granting a license poses a very high risk to competition in the U.S. that could not be cured by conditions placed on the license.

The Commission also proposed to apply the ECO-Sat test for satellites licensed by non-WTO members, for intergovernmental organizations, and for services for which the United States has taken an exemption from most-favored-nation obligations under the Agreement (DTH, DBS, and DARS). In addition, the *FNPRM* proposes that in all cases, the Commission will consider whether grant of an application to access a non-U.S. licensed satellite will serve the public interest, convenience, and necessity. A primary challenge of this rulemaking will be to balance the objective of competitive entry with that of preventing competitive distortions. Comments were filed on August 21, 1997; replies on September 5, 1997.

Part 25 Streamlining Order (IB Docket No. 95-117)

The Commission modified Part 25 of its rules regarding satellite earth and space station licensing on October 29, 1996. The revised rules enable satellite service providers to respond more quickly to customers' needs. Among other things, the new rules waived the construction permit requirement for space stations, relaxed the rules governing space station licensee reports, and simplified license renewal rules for temporary fixed earth stations and very small aperture terminal earth stations.



Mobile Satellite Services (MSS) Above 1 GHz (Big Leos)

The FCC adopted rules in 1994 for licensing the world's first commercial low-Earth-orbit (LEO) satellite systems capable of providing both voice and data services on a global basis to users equipped with mobile terminals. Besides enhancing competition in areas served by terrestrial mobile systems, this new mobile satellite service -- commonly known as "the Big LEO service" -- will afford Americans in rural areas that have not been linked to the telecommunications infrastructure immediate access to a feature-rich communications network. Moreover, Big LEO systems can extend these benefits throughout the world, and can provide an "instant" global and national telecommunications infrastructure to people in countries that currently have no nationwide communication service.

Six parties filed applications in 1990 proposing use of the 1610-1626.5 and 2483.5-2500 MHz bands for voice-and-data mobile satellite service ("MSS"), although at that time neither band was internationally or domestically allocated for such use. Two years later, in response to a U.S. proposal at WRC-92, the ITU allocated those bands for co-primary use by MSS service links, and the FCC adopted conforming domestic allocations in 1993.

In the 1994 rulemaking decision, the Commission concluded that five Big LEO systems -- one fewer than the number of applicants -- could be accommodated in the 1.6/2.4 GHz MSS bands. Because the band-sharing plan could not accommodate all of the pending applications and no other spectrum was available for voice-and-data MSS, the Commission adopted a strict financial-qualification standard.

The Big LEO applicants were required to demonstrate that they could meet the costs of building and launching all of their systems' satellites and meet operating expenses for one year after launching the first satellite.

In January 1995, the Commission found three applicants-- Motorola, Loral, and TRW -- financially-qualified and authorized them to construct, launch, and operate their proposed satellites. One other applicant, AMSC, did not file a financial amendment. Therefore, the application of AMSC was dismissed in January 1997. The Commission also deferred consideration of the remaining two Big LEO applications of MCHI and Constellation because they had not yet established that they were financially qualified.

The Commission allowed the two applicants until September 1996 to establish their financial qualifications. In the *Orders* issued July 1, 1997, the Commission found that the financial showing for both parties was still insufficient. However, for reasons stated in the *Order and Authorization*, the Commission granted Constellation's and MCHI's requests for waivers of the financial qualification requirement and granted both applications.

Constellation proposes to construct a 46-satellite system called "ARIES", while MCHI has proposed

a sixteen satellite system called "ELLIPSO". The systems will be used provide services such as two-way voice and value-added data services, including geolocation, paging/messaging, fax and remote monitoring. The license terms for both systems is 10 years.

Televisa International (DA 97-1758)

Televisa International, LLC was authorized to operate 1,000,000 receive-only earth stations in the United States to receive Direct-To-Home Fixed Satellite Service (FSS) television services Mexico's Solidaridad II satellite on August 15, 1997. This *Authorization* reflects the cooperative relationship between the United States and Mexico regarding satellite telecommunications

U.S.-Mexico Protocol For Direct-To-Home Satellite Services

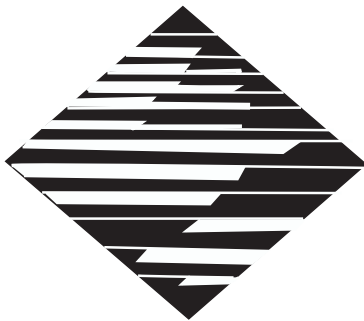
The United States and Mexico signed the first Protocol attached to the Framework Agreement for the Provision of Direct-To-Home (DTH) Satellite Services in both countries on November 8, 1996. In the protocol, the United States agrees to permit satellites licensed by Mexico to provide DTH-FSS and BSS to, from, and within the United States and Mexico agrees to permit satellites licensed by the United States to provide DTH-FSS and BSS to, from, and within Mexico. This Protocol encompassed the generic DTH services provided in the Fixed Satellite Services (FSS) and Broadcast Satellite Services (BSS) frequency bands. Direct Broadcast Satellite services are those provided using BSS frequencies.

Global Mobile Personal Communications Services

In 1994 the ITU Kyoto Plenipotentiary Conference proposed to establish a world telecommunications policy forum to address the policy and regulatory issues raised by the introduction of global mobile personal communications services (GMPCS) by satellite.

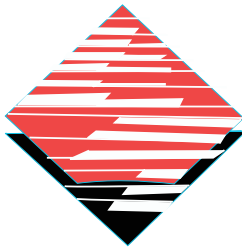
The first World Policy Forum took place in Geneva in October 1996, and five draft opinions were adopted regarding the role of GMPCS in the globalization of telecommunications and the shared visions and principles regarding deployment of global systems.

Opinion 4 specifically requested that an Memorandum of Understanding (MoU) be drafted that would facilitate the free circulation of GMPCS user terminals. This critical task required that interested parties and signatories assemble in the Spring of 1997 to sign the MoU and proceed to draft specific arrangements (Articles 1-5) as outlined in Opinion 4. The MoU specified completion of these arrangements by late 1997. Staff from the Commission's International Bureau have been working closely with industry to craft a set of arrangements for final approval in FY98.



Wireless Telecommunications Bureau

Overview



The Wireless Telecommunications Bureau (WTB) oversees the use of radio spectrum to fulfill the communications needs of businesses, local and state governments, public safety service providers, aircraft and ship operators, and individuals. In addition to licensing commercial providers of wireless services, WTB monitors the more than two and a half million licensees that use private wireless radio for personal convenience, to promote safety of life and property, to increase commercial productivity, and to advance the science of telecommunications.

The principal functions of WTB include evaluating new technologies (with the Office of Engineering and Technology), assessing utilization levels of the spectrum and the competitiveness of markets, identifying and allocating spectrum appropriate for licensing, developing through rulemaking the operating rules for radio-based services, assigning licenses through competitive bidding (auctions), developing methodologies for conducting complex auctions of radio spectrum, maintaining an antenna structure registration program, licensing commercial radio operators, and enforcing the Commission's rules.

WTB coordinates closely with the Office of Engineering and Technology on spectrum allocations and rules governing equipment used in the provision of wireless services, and with the International Bureau on international spectrum allocations for wireless services and coordination between terrestrial and

space-based services. WTB also works with representatives of the Public Safety community to foster a partnership to address public safety communications issues.

In addition to the proceedings discussed below, the Bureau also has undertaken other initiatives to promote an efficient and competitive communications environment. For example, the Bureau has made its licensing system more flexible, streamlined, and deregulatory -- thereby speeding the delivery of services to the public. Over the last 18 months, the percentage of licenses which have the capability to be filed electronically has grown from virtually zero to 65 percent. In August 1997, after working closely with the Bureau, the Personal Communications Industry Association (PCIA) and other coordinators and large applicants began to file thousands of applications and fees for spectrum licenses through the use of Electronic Data Interchange (EDI), saving significant time and resources. In September 1997 the Bureau introduced an electronic renewal form that can be accessed and utilized on the Internet, thereby providing all wireless telecommunications licensees the capability to renew their licenses electronically.

The Bureau also made improvements to its web site (www.fcc.gov/wtb) to make it easier to access information on a variety of topics. The web site includes information concerning wireless communications services, FCC rules and regulations, Commission orders and public notices, and access to forms and licensing databases. The site has become critical in supporting spectrum auctions by providing bidder information, round results and auction statistical reports. During FY97 the WTB web site recorded over 184,000 hits.

Major Proceedings



D, E, and F Block Auction

The D, E, and F Block auction closed on January 14, 1997. The auction, which opened August 26, 1996, offered 1479 licenses for mobile voice and data services and raised \$2.5 billion for the U.S. Treasury. The F Block was reserved for entrepreneurs and small businesses.

Cellular Unserved Auction

The cellular unserved auction closed on January 21, 1997. The nine-day auction offered 14 licenses for mobile voice and data services and raised \$1.8 million for the U.S. Treasury.

WCS Auction (GN Docket No. 96-288)

On February 19, 1997, the Commission released a *Report and Order* in GN Docket No. 96-288, which established Part 27, the Wireless Communications Service (WCS), as mandated by the Omnibus Consolidated Appropriations Act of 1997. The new rules reallocated 30 MHz of spectrum in the 2.3 GHz band from Government to non-Government use, gave licensees in this band flexibility to provide any fixed, mobile, radiolocation, and broad-

casting-satellite (sound) services, and adopted a competitive bidding plan to assign 128 licenses quickly by auction. The auction began on April 15, 1997, as required by statute, and closed on April 26, 1997, after 29 rounds of bidding. After factoring in bidding credits for small and very small businesses, the auction raised a total of \$13.6 million for the U.S. Treasury.

**Digital Audio Radio Service (DARS)
(IB Docket No. 95-91;
GN Docket No. 90-357)**

On March 3, 1997, the Commission released a *Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking* in IB Docket No. 95-91 and GN Docket No. 90-357 establishing rules on licensing satellite Digital Audio Radio Service (DARS) to operate between 2320 and 2345 MHz (S-Band). The Commission decided to offer two licenses by an auction among the four bidders that applied for licenses prior to a December 1992 cutoff date. The auction, which opened April 1, 1997, and closed April 2, 1997, raised a total of \$173.2 million for the U.S. Treasury.

**800 MHz Specialized Mobile Radio
(SMR) Auction
(PR Docket No. 93-144; GN Docket No.
93-252; PP Docket No. 93-253)**

On June 23, 1997, the Commission adopted a *Memorandum Opinion and Order* and a *Second Report and Order* in PR Docket No. 93-144, GN Docket No. 93-252, and PP Docket No. 93-253 establishing service and auction rules for specialized mobile radio (SMR) service, which can operate in an interconnected mode (as a mobile tele-

phone) or in a dispatch mode (as two-way voice communications between mobile units or between mobile and fixed units).

**Paging Systems
(WT Docket No. 96-18;
PP Docket No. 93-253)**

On February 19, 1997, the Commission adopted a *Second Report and Order and Further Notice of Proposed Rulemaking* in WT Docket No. 96-18 and PP Docket No. 93-253, which instituted rules governing geographic area licensing of Common Carrier Paging and 929 MHz Private Carrier Paging and established competitive bidding procedures for auctioning mutually exclusive applications for these licenses. Among other things, the rules allow geographic area paging licensees to partition their license area. The Commission also sought comment on various issues. The Commission is tentatively planning to auction licenses for this service in the Third Quarter of 1998.

**Multiple Address Systems (MAS)
(WT Docket No. 97-81)**

On February 19, 1997, the Commission adopted a *Notice of Proposed Rulemaking (NPRM)* in WT Docket No. 97-81, proposing to examine ways to maximize the use of spectrum allocated to Multiple Address Systems (MAS) in the Fixed Microwave Services. The *NPRM* proposes a flexible regulatory framework for spectrum allocations that provides opportunities for continued development of competitive new service offerings by allowing flexible use of spectrum, expedites market entry through modified licensing procedures, and promotes technological innovation by eliminating unnecessary regulatory burdens.

Local Multipoint Distribution Service (LMDS) (CC Docket No. 92-297)

On March 11, 1997, the Commission adopted a *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking* in CC Docket No. 92-297 allocating spectrum and establishing rules for the new Local Multipoint Distribution Service (LMDS). On September 9, 1997, the Commission adopted a *Second Order on Reconsideration* in CC Docket No. 92-297 eliminating installment payments for LMDS licensees in favor of revised, tiered bidding credits for very small, small, and entrepreneurial businesses. An auction to award 986 LMDS licenses is scheduled to begin in 1998. LMDS permits two-way, high speed data transmission and/or one-way video distribution in the high frequency microwave or millimeter wave band. LMDS is cheaper and faster to deploy than fiber optics or coaxial cable, but has a range of under 10 miles, depending on weather conditions. Users will be able to communicate data at faster speeds than are possible with conventional modems. The Commission is tentatively planning to auction licenses for this service in the First Quarter of 1998.

220 MHz Band by Private Land Mobile Radio Service (PR Docket No. 89-552; GN Docket No. 93-252; PP Docket No. 93-253)

On March 12, 1997, the Commission released a *Third Report and Order and Fifth Notice of Proposed Rulemaking* in PR Docket No. 89-552, GN Docket No. 93-252, and PP Docket No. 93-253, which established service and auction rules for Phase II 220 MHz land mobile service licenses.

In Phase I, commercial channels in this service were assigned on a first-come, first-served basis, with mutually exclusive applications subject to random selection. For Phase II, the Commission established geographic area licensing for three nationwide, 30 regional, and 875 economic area licenses to be awarded through competitive bidding. The Commission will hold a single simultaneous multiple round auction in 1998, with bidding procedures similar to those used in previous auctions. There are special provisions to encourage the participation and success of small businesses. In addition, any holder of a Phase II 220 MHz license may partition portions of its license area to eligible parties. The Commission is tentatively planning to auction licenses for this service in May 1998.

Additionally, on June 23, 1997, the Commission adopted a *Fourth Report and Order* which repealed the "40-mile rule" for all nationwide and non-nationwide Phase I 220 MHz service licensees. Repeal of the rule will enable licensees to operate stations in a particular service category within 40 miles of an existing system operated by the licensees in the same category, without being required to demonstrate that the additional system is justified on the basis of its communications requirements.

Narrowband Personal Communications Service Competitive Bidding Rules (GN Docket No. 90-314, ET Docket No. 92-100, PP Docket No. 93-253)

On April 23, 1997, the Commission released a *Second Report and Order and Further Notice of Proposed Rulemaking* establishing competitive bidding rules for awarding the remaining authori-

zations for narrowband Personal Communications Services (PCS) and seeking comment on a number of proposals relating to licensing and auctions issues.

Use of Radio Frequencies Above 40 GHz for New Radio Applications (ET Docket No. 94-124)

On May 2, 1997, the Commission adopted a *Report and Order* designating the frequency spectrum band between 47.2 GHz and 48.2 GHz for commercial use on a licensed basis. The *R&O* also adopted a proposal to license operations on an area-wide basis and determined to divide the spectrum into five pairs of license blocks of 200 megahertz each, with each pair separated by 500 megahertz of spectrum.

Automatic Vehicle Monitoring Systems (PR Docket No. 93-61)

On August 28, 1997, the Commission adopted a *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* concerning rules governing the Location and Monitoring Service (LMS). This proceeding clarifies interconnection limitations for multilateration LMS, as well as operational parameters for non-multilateration systems, treatment of other users of the 902-928 MHz band, the structure of the spectrum allocation plan, the geographic service area for licensing multilateration LMS and the licensing of wideband forward links. The Commission is tentatively planning to auction licenses for this service in the Third Quarter of 1998.

Interactive Video and Data Service (IVDS) (PP Docket No. 93-253)

On November 15, 1996, the Commission adopted the *Tenth Report and Order* in PP Docket No. 93-253, thereby modifying the competitive bidding rules for the auction of interactive video and data service (IVDS) licenses. The rule amendments eliminated the bidding credits available to women- and minority-owned IVDS applicants and extended two levels of bidding credits to small businesses based upon a revised two-tiered small business definition. The Commission also clarified the attribution rules for affiliates of IVDS applicants and increased the amount of the upfront payments required to participate in the auction. On January 29, 1997, the Commission postponed the auction, which was originally scheduled to begin on February 18, 1997, in order to consider proposed rule changes and a number of issues raised by the IVDS industry.

General Competitive Bidding Rules (Part 1) (WT Docket No. 97-82)

On February 20, 1997, the Commission adopted an *Order, Memorandum Opinion and Order and Notice of Proposed Rulemaking* in WT Docket No. 97-82 regarding amendments to Subpart Q of Part 1 of the Commission's rules. The *Order*, in general, adopted procedural amendments to the Commission's competitive bidding rules. The *Notice of Proposed Rulemaking* proposed changes to the current general competitive bidding rules to create a menu of rules that could be tailored to different services and applied to all future spectrum auctions. The proposed approach would eliminate the need for future consideration of most

auction rules on a service-by-service basis and would ensure uniform auction procedures. The *Notice of Proposed Rulemaking* also proposed to allow the Commission to require minimum opening bids in future auctions.

Reserve Price/Minimum Opening Bids

The Balanced Budget Act of 1997, which became law on August 5, 1997, requires the Commission to prescribe methods by which a reasonable reserve price will be required, or a minimum bid will be established, unless the Commission determines that such a reserve price or minimum bid is not in the public interest. On September 5, 1997, the Bureau released a Public Notice, DA 97-1933, proposing that the licenses in the 800 MHz SMR auction not be sold for less than the amount of the upfront payments previously specified for the licenses. The Bureau requested comment on whether the amount of the upfront payments should be considered reserve prices or minimum opening bids for the auction. The Bureau asked whether reserve prices or minimum opening bids should be capped to ensure that bidding is not deterred on high valuation markets.

Options for Modifying C Block Payments (WT Docket No. 97-82)

On September 25, 1997, the Commission adopted a *Second Report and Order and Further Notice of Proposed Rulemaking* in WT Docket No. 97-82 regarding installment payment financing for C Block Personal Communications Service (PCS) licensees. Earlier, the Wireless Telecommunications Bureau had suspended the deadline for installment payments owed by winning bidders in

the C and F Block auctions, which were designated for entrepreneurs. In the *Second Report and Order*, the Commission reinstated payment deadlines for both C and F Block licensees, with the first payment due March 31, 1998. In addition to resuming payments under their existing installment payment plan and paying previous accrued interest over eight equal payments, C Block licensees were permitted to elect one of three options by January 15, 1998. The first option allows licensees to disaggregate and return for reauction one-half of the spectrum for all of their licenses in exchange for having their debt reduced by the corresponding amount. The second option permits a licensee to return all of its licenses in exchange for having all of its outstanding debt forgiven. The final option entitles licensees to purchase, on or before January 15, 1998, any of its licenses at the outstanding principal balance of the debt outstanding on those licenses.

FCC Report to Congress on Spectrum Auctions (WT Docket No. 97-150)

On September 30, 1997, the Commission adopted the FCC Report to Congress on Spectrum Auctions in WT Docket No. 97-150, as required by the 1993 Budget Act. In fulfillment of Section 309(j)(12) of the Communications Act, the report provided a comprehensive evaluation of the first four years of the Commission's implementation of its auction authority.



Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Service Licensees (WT Docket No. 96-148, GN Docket No. 96-113)

On December 13, 1996, the Commission adopted a *Report and Order and Further Notice of Proposed Rulemaking* concerning geographic partitioning and disaggregation for all broadband Personal Communications Service (PCS) licensees. The *Report and Order* adopted rules to give existing PCS licensees and potential new entrants greater flexibility to determine how much spectrum they need and the geographic areas in which they will provide service. The *Further Notice* proposed to allow partitioning and disaggregation for other wireless services where such rules have not previously been proposed or adopted.

Pacific Telesis Group and SBC Communications, Inc. (Report No. LB-96-32)

On January 31, 1997, the Commission adopted a *Memorandum Opinion and Order* granting transfer-of-control applications for certain authorizations filed by SBC Communications, Inc. and Pacific Telesis Group in connection with the proposed merger of the two companies.

Microwave Relocation (WT Docket No. 95-157)

On February 13, 1997, the Commission amended its rules concerning relocation of microwave systems in the 2 GHz band to clear spectrum for Personal Communications Services (PCS). The *Second Report and Order* shortened the period for

voluntary negotiations between non-public safety microwave incumbents and PCS licensees in the C, D, E and F blocks and allowed microwave incumbents who relocate their own systems to participate in the relocation cost sharing plan adopted by the Commission previously. The adoption of this proceeding will facilitate rapid deployment of PCS to the public.

Environmental Effects of Radiofrequency (RF) Emissions (WT Docket No. 97-192)

On August 25, 1997, the Commission adopted a *Notice of Proposed Rulemaking* to establish procedures for filing and reviewing requests for relief from state or local regulations based directly or indirectly on the environmental effects of RF emissions. Specifically, comments were sought on proposed procedures for filing and reviewing requests for relief from state or local regulations on the placement, construction or modification of personal wireless service facilities based on these emissions. These proposals will allow personal wireless services to be deployed and delivered to customers rapidly, while preserving the authority of state and local jurisdictions in land use matters and protecting the public health.

Calling Party Pays Service Option in Commercial Mobile Radio Service (WT Docket No. 97-207)

On September 25, 1997, the Commission adopted a *Notice of Inquiry* seeking comment regarding Calling Party Pays (CPP). The goal of the proceeding is to examine potential competitive advantages and disadvantages of CPP, for purposes of determining whether to allow or require greater

opportunities for CMRS providers to offer CPP as an option available to their customers.

LEC-CMRS Safeguards (WT Docket No. 96-162)

The Commission adopted a *Report and Order* on September 30, 1997, reviewing its existing regulatory safeguards for the provision of broadband commercial mobile radio services (CMRS) by incumbent local exchange carriers (LECs) and their affiliates. These safeguards were adopted to address concerns that recent developments in the CMRS market may increase the incentive for anticompetitive behavior by incumbent LECs. The safeguards will help to ensure fair rules of competition, while doing so in the least burdensome manner possible that directly addresses the potential for anticompetitive behavior.

Aviation Omnibus (WT Docket No. 96-211)

On October 9, 1996, the Commission adopted an *Notice of Proposed Rulemaking* proposing to permit aeronautical ground stations to use the frequencies in the 112-118 MHz band to transmit differential Global Positioning System (GPS) information to aircraft equipped to use advanced landing systems, and proposing to allow the use of handheld radios for direct communications between ground service personnel and flight crews on frequencies allocated to the Aeronautical Enroute Service. The proposed changes would increase the safety and efficiency of aircraft navigation and the movement of aircraft in and around airports.

Domestic Ship and Aircraft Radios (WT Docket No. 96-82)

On October 18, 1996, the Commission adopted an *Report and Order* permitting operation of certain domestic ship and aircraft radio stations without individual licenses. The removal of individual licensing requirements for approximately 710,000 operators of radio stations on board recreational ships and aircraft resulted in a savings to the American public of over \$9 million per year.

Private Land Mobile Radio White Paper

On December 18, 1996, the Bureau released the White Paper on the Private Land Mobile Radio (PLMR) Services, which highlights the unique role and requirements of the private wireless radio community. The paper explains what the PLMR Services are, how they came into being, how they are regulated and what special needs these services fulfill. It serves as a critical tool for making future policy decisions about the PLMR Services.

Refarming Reconsideration (PR Docket No. 92-235)

On December 23, 1996, the Commission adopted a *Memorandum Opinion and Order* in PR Docket No. 92-235, a proceeding that launched the Commission's "Refarming" initiatives for Private Land Mobile Radio. The goal of this proceeding is to develop a strategy for encouraging more efficient use of the spectrum below 800 MHz to meet the growing communications needs of private land mobile radio users. The *MO&O* addressed the petitions for reconsideration of, and corrected and clarified various technical parameters adopted in,

the *Report and Order*, which will enable manufacturers to begin marketing more efficient radio equipment.

Consolidation of Private Land Mobile Radio Services (PR Docket No. 92-235)

On February 20, 1997, the Commission adopted rules in the *Second Report and Order* in PR Docket No. 92-235, setting forth a plan to consolidate into two “pools” the twenty Private Land Mobile Radio (PLMR) Services and addressing other issues raised in conjunction with the consolidation. This represents a significant step in the evolution of the private land mobile services and reflects a comprehensive restructuring of the PLMR regulatory environment. These changes will promote a highly effective and efficient use of PLMR spectrum and contribute to an environment in which advanced technologies will thrive.

Maritime Service (PR Docket No. 92-257)

On June 17, 1997, the Commission adopted a *Second Report and Order* and *Second Further Notice of Proposed Rule Making* in PR Docket No. 92-257, amending the Commission’s Rules concerning maritime communications. This item introduces greater levels of operational flexibility by allowing VHF public coast station licensees to provide automated, interconnected telecommunications services to fixed and mobile units on water or on land, promotes technical flexibility for recreational and high seas vessels, and provides regulatory flexibility by streamlining the ship station and private coast station licensing process. In addition, the item proposes to: (1) move from site-

based licensing to geographic area licensing for VHF public coast stations, (2) employ competitive bidding procedures for resolving mutually exclusive applications for public coast station spectrum (both VHF or high seas coast stations), (3) simplify VHF public coast station licensing procedures, and (4) increase licensee flexibility to provide services responsive to market demands.

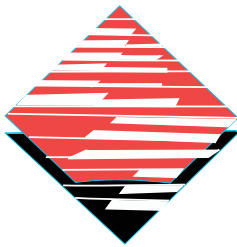
Paging Enforcement

On April 8, 1997, the Commission adopted a *Hearing Designation Order* to determine whether MobileMedia, the country’s second largest paging company (more than 4.4 million subscribers), is qualified to be and remain a Commission licensee, and whether all its licenses should be revoked. This action was taken after a comprehensive Bureau investigation. In October 1996, MobileMedia informed the Commission that it had filed a large number of FCC Forms 489 containing false information. (Licensees use FCC Forms 489 to inform the Commission that a particular paging station has been constructed and is operating). On June 6, 1997, the Commission issued a 10 month stay of the proceeding to enable MobileMedia, which had filed for bankruptcy under Chapter 11, to arrange for a distress sale of its licenses.



Office of Engineering and Technology

Overview



With approximately 90 fulltime employees, the Office of Engineering and Technology (OET) is one of the smaller units of the Commission. Yet in terms of achievement, OET scored a remarkable record in productivity in the past year, posting many significant contributions to the mission of the agency.

OET is responsible for administering Parts 2, 5, 15, and 18 of the Commission's Rules as well as serving as technical advisor to the Commission. This wide-ranging obligation entails various activities, including rulemaking, research and testing, technical evaluation, and education. OET expended considerable resources this year in implementing the provisions of the Telecommunications Act of 1996 and in continuing its work in reallocating spectrum from federal government to private use, in accordance with Congressional intent.

OET is organized into four divisions, each one dedicated to a particular aspect of spectrum use. To facilitate its work, OET is guided by a Management Team which comprises the Front Office personnel and the Chiefs of the four Divisions: Policy and Rules, New Technology Development, Allocations and Standards, and Equipment Authorization.

Members of the **Management Team** are engaged in efforts

relating to the mission of the Office, especially those which involve coordination with other groups within and outside the Commission.

The **Policy and Rules Division** has two functional units: the Spectrum Policy Branch (SPB), which handles petitions for rulemaking and other matters pertaining to the use of the electromagnetic spectrum (Part 2), and the Technical Rules Branch (TRB), which handles petitions and waiver requests relating to unlicensed (Part 15) and Industrial, Scientific, and Medical Devices (Part 18).

The particular responsibility of **Allocations and Standards Division** is to conduct studies and analyses relating to spectrum management and to plan for future uses of the spectrum in relation to developing telecommunications requirements. The Division includes two branches which share these obligations, the Standards Development Branch and the Spectrum Utilization and Economics Branch. Because the use of 40% of the spectrum is shared between the federal government and the private sector, the Division also co-ordinates frequency allocation policy and assignment activities with the National Telecommunications and Information Administration (NTIA), the agency within the Department of Commerce responsible for government use of the spectrum. ASD also participates in national and international standards-setting activities with other federal agencies.

The **New Technology Development Division** conducts laboratory analyses and special tests to evaluate the performance, spectrum efficiency, and interference potential of new technologies and services. The Experimental Licensing Branch administers Part 5 of the Commission's Rules, thus providing a basic and important service in helping to facilitate the development of new ideas in telecom-

munications by permitting and monitoring limited operation of innovative devices and services. The Technical Research Branch conducts studies of radio wave propagation and communications systems which enable the Commission to improve spectrum efficiency. In addition, staff provides a liaison with government agencies, non-government organizations, and industries concerned with the development of new technologies.

The **Equipment Authorization Division**, which includes the Customer Service Branch and the Applications Processing Branch, operates largely out of the OET laboratory in Columbia, MD. EAD's main responsibility is for administering Subparts I and J of the Commission's rules, which deal with ensuring that only electronic devices which operate without causing harmful interference are permitted to be imported, marketed, and operated in the United States. It also provides public assistance and information concerning the authorization process and serves as liaison to foreign and domestic organizations concerned with equipment authorization. The Division designs test procedures for equipment subject to Commission regulation and supports industry standards activities concerning measurement procedures.

During FY97 significant OET activities included:

- Serving on the Network Reliability and Interoperability Council (NRIC), a 43-member Federal advisory committee chartered by the FCC to provide advice to the Commission and to the telecommunications industry on telecommunications issues requiring technical expertise.
- Serving on the U.S. team which negotiated the first Mutual Recognition Agreement with the European Union, concluded in June 1997.

■ Conducting, along with the Office of Communications Business Opportunities (OCBO), a forum and demonstrations on “Opportunities For Unlicensed Spectrum Use,” in which speakers from both the Commission and industry presented material on new unlicensed devices and systems, especially the Unlicensed National Information Infrastructure (U-NII) devices. In conjunction with industry representatives, OET also presented an “Open Forum on Electronic Data Exchange” and one on “Smart Antenna Technology.”

■ Planning and presenting a series of highly technical tutorials concerning technology developments, including:

- “Progress in Optical Communications for Commercial Terrestrial Telecommunication
- “Data Over Cable -- Cable Modems”
- “Digital Local Multipoint Distribution Systems”
- “Wireless Local Loop.”

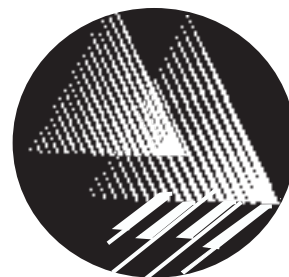
■ Preparing and distributing various publications, including *OET Bulletin No. 70: Millimeter Wave Propagation: Spectrum Management Implications and OET Bulletin No. 65 (including Supplement A), Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields.*

■ Responding to approximately 65,000 calls for information on the FCC’s technical standards for RF devices and equipment authorization requirements. In addition, almost 1,500 information packets on the equipment authorization program were mailed to the public. Over 400 individual questions were responded to via e-mail and 175 responses were sent via fax.

■ Maintaining the OET Internet homepage and the 24-hour Public Access Link (PAL), which provides computerized information on the status of pending applications, limited technical information on granted authorizations, and other information related to equipment authorization that is of interest to the public. The PAL system handled approximately 3,800 calls and 9,000 ID accesses monthly, or approximately 45,000 calls and over 100,000 ID accesses annually. These efforts have significantly increased public access to Commission information.

■ Issuing 4,497 equipment authorizations and 479 changes to existing equipment.

■ Proceeding with a plan to determine requirements, and develop a strategy for implementing electronic filing and data exchange for the equipment authorization program was completed and a contract for implementation was awarded at the end of FY97. Full implementation is expected in the first half of 1998.



Major Proceedings



Advanced Television Systems and Their Impact upon the Existing Television Broadcasting Service (DTV) (MM Docket No. 87-268)

On April 23, 1997, the Commission released the *Sixth Report and Order* setting forth the initial digital television allotments and the procedures for assigning DTV frequencies to broadcasters. It included a table of DTV channel allotments which emphasized the efficient use of the spectrum and the possibilities for eventual recovery of that spectrum which would no longer be needed for television broadcasting because of the efficiencies of digital transmission.

FCC engineers developed computer models capable of evaluating DTV channel allotment tables and completed an empirical study regarding short-term propagation variability of UHF television signals. Studies were conducted to minimize the impact of the new system on the current system during the transition period to digital television. Of great significance was the identification of DTV allotments that would accommodate all NTSC eli-

gible broadcasters, while minimizing interference to either service. This new digital service will allow television users to take advantage of personal computer services and the enormous array of communications and information processing tools made available by industry.

It will open a broad range of business opportunities, such as manufacturing of equipment to provide interoperability between television and digital video, data systems, and computer processing functions. Broadcasters will be able to compete in providing their service from a new digital platform capable of supporting large screen service and multimedia applications.

Reallocation of Television Channels 60-69 (ET Docket No. 97-157)

On July 10, 1997, the Commission released a *Notice of Proposed Rule Making* proposing to reallocate television channels 60-69, occupying 60 megahertz of spectrum at 746-806 MHz. Specifically, the Commission proposed to reallocate 24 megahertz at 764-776 MHz and 794-806 MHz (*i.e.*, channels 63, 64, 68, and 69) to the fixed and mobile services, for public safety use. The Commission also proposed to allocate the remaining 36 megahertz at 746-764 MHz and 776-794 MHz (*i.e.*, channels 60-62 and 65-67) to the fixed, mobile, and broadcast services.

This action is the first step in the early recovery of spectrum enabled by decisions taken in the Commission's *Sixth Report and Order* in the Digital Television (DTV) proceeding, MM Docket No. 87-268 (see above). These allocations are intended to help meet the needs of public safety for additional spectrum, make new technologies and ser-

vices available to the American public, and allow more efficient use of spectrum in the 746-806 MHz band. On August 5, 1997, the Balanced Budget Act of 1997 was enacted. The reallocation of TV channels 60-69 that is mandated by the Budget Act is consistent with the Commission's proposals in the *NPRM*.

Guidelines for Exposure to Radiofrequency Emissions (ET Docket No. 93-62)

In connection with its responsibilities under the National Environmental Policy Act (NEPA), the Commission considers the potential effects of radiofrequency (RF) emissions from FCC-regulated transmitters on human health and safety. Since the Commission is not the expert agency in this area, it uses standards and guidelines developed by those with the appropriate expertise.

In 1991, the Institute of Electrical and Electronics Engineers (IEEE) issued guidelines designed to replace the 1982 RF exposure guidelines approved by the American National Standards Institute (ANSI). These guidelines (ANSI/IEEE C95.1-1992) were subsequently adopted by ANSI as its standard. An *NPRM* initiated by OET staff and released April 8, 1993, (ET Docket 93-62) proposed standards to update the Commission's guidelines for evaluating environmental RF fields. Over 150 comments, or 3000 pages, were filed in the proceeding.

On August 1, 1996, the Commission adopted a *Report and Order* in this proceeding that adopts new guidelines and methods for evaluating the environmental effects of RF emissions from FCC-regulated transmitters. The updated guidelines generally are more stringent than the current rules,

and are based on recommendations of the Federal health and safety agencies, including the Environmental Protection Agency and the Food and Drug Administration. Completion of this proceeding also satisfied the requirements of Section 704 of the Telecommunications Act of 1996.

The Commission adopted Maximum Permissible Exposure ("MPE") limits for electric and magnetic field strength and power density for transmitters operating at frequencies from 300 kHz to 100 GHz. These MPE limits are generally based on recommendations of the National Council on Radiation Protection and Measurement (NCRP) and, in many respects, are also generally based on the 1992 ANSI/IEEE guidelines.

The Commission also adopted limits for specific absorption rate (SAR) for evaluating certain hand-held devices, such as cellular and PCS telephones, based on ANSI/IEEE and NCRP recommendations. A transition period for implementation of the RF guidelines originally extended to January 1, 1997. Guidelines and requirements for evaluation of hand-held devices applied immediately upon adoption.

The Commission also incorporated into its rules provisions of Section 704 of the Telecommunications Act of 1996, which preempt state or local government regulation of personal wireless services facilities based on RF environmental effects, to the extent that such facilities comply with the Commission's rules concerning such RF emissions.

In response to the *Report and Order*, 17 petitioners requested that we extend the transition period for compliance with the new requirements beyond January 1, 1997, arguing that the existing transition period does not allow adequate time. On De-

September 24, 1996, the Commission released a *First Memorandum Opinion and Order* extending the transition period for applicants and station licensees to determine compliance with the new requirements for evaluating the environmental effects of radiofrequency (RF) electromagnetic fields from transmitters regulated by the Commission. For most radio services, the transition period was extended by eight months to September 1, 1997. For the Amateur Radio Service the transition period was extended to January 1, 1998.

Further, the Commission adopted the *Second Memorandum Opinion and Order* on August 25, 1997 to address other issues raised by the petitioners, especially that of extending the initial transition period for implementation of the new guidelines for fixed stations and transmitters to October 15, 1997, and of establishing a date certain when all existing transmitting facilities and devices are expected to be in compliance with the new RF guidelines (September 1, 2000).

Unlicensed National Information Infrastructure (U-NII) Devices (ET Docket No. 96-102)

On January 9, 1997, the Commission released a *Report and Order* which amended Part 15 of the Rules to make available 300 megahertz of spectrum at 5.15-5.35 GHz and 5.725-5.825 GHz for use by a new category of unlicensed equipment, called U-NII devices. These devices are intended to provide high speed wireless digital communications on an unlicensed basis, will support the creation of new wireless local area networks (LANs), and will facilitate wireless access to the NII. In order to permit flexibility in the design and operation of these devices, the *R&O* adopted

those technical rules found to be minimally necessary to prevent interference to other services and to ensure that the spectrum is used efficiently. These rules are also intended to foster the development of a broad range of new devices and service offerings that will stimulate economic development and the growth of new industries.

Allocation of Spectrum at 2 GHz for the Mobile-Satellite Service (ET Docket No. 95-18)

On March 14, 1997, the Commission released a *First Report and Order and Further Notice of Proposed Rule Making* allocating 70 megahertz of spectrum at 1990-2025 MHz (uplink) and 2165-2200 MHz (downlink) to the MSS. The Commission also modified the existing BAS, CARS, and LTTS allocation at 1990-2110 MHz by providing an allocation instead at 2025-2130 MHz and proposing to rechannelize this allocation from seven channels of 17- and 18-megahertz bandwidths to seven channels of 15-megahertz bandwidth.

In addition, the FCC proposed reaccommodation and/or relocation of existing BAS and Fixed Service operations in the 1990-2025 MHz, 2110-2130 MHz, and 2165-2200 MHz bands in accordance with the policies we established in our Emerging Technologies proceeding, ET Docket No. 92-9. Action on technical parameters and licensing issues for MSS in the 2 GHz band was deferred to a separate proceeding, and the Commission denied a pioneer's preference request filed by Celsat America, Inc.

Revision of the Experimental Radio Service Regulations (ET Docket No. 96-256)

On December 20, 1996, the Commission released a *Notice of Proposed Rule Making* proposing to revise Part 5 of its rules, which governs the Experimental Radio Service. The Commission took this action in order to promote technical innovation and new services by encouraging experiments, to ensure that experimental licenses do not result in abuse of its processes, to eliminate unnecessary and burdensome experimental regulations, and to protect public safety frequencies.

Specifically, the Commission proposed to: 1) permit longer license terms; 2) permit blanket licensing of related multiple experiments by a single entity and of fixed and mobile stations that are part of the same experiment; 3) permit electronic filing of experimental applications; 4) encourage student experiments by issuing licenses to schools, as well as to individual students, and by permitting use of additional frequencies; 5) encourage special temporary authorizations (STAs) by making them independent of other experimental licenses and by expediting processing of STAs where circumstances warrant; 6) limit the size and scope of each market study on a case-by-case basis, and to immediately terminate any such study that the Commission determines to be in excess of this size and scope; 7) limit STAs to single short-term, non-renewable authorizations; 8) eliminate the requirement that experimental licensees contact the Commission's Compliance and Information Bureau before commencing operation; 9) eliminate rules that specify that a construction permit be obtained in conjunction with an experimental license and that expiration dates of experimental li-

censes be distributed over the 12 calendar months; 10) issue new rules designed to ensure that experiments avoid public safety frequencies; and, 11) consolidate and reorganize the rules, including transferring those rules governing wildlife and ocean buoy tracking operations from Part 5 to Part 90, and soliciting comment on transferring rules governing broadcasting experiments that are not directed toward improvement of the technical phases of operation and service of licensed broadcast stations from Part 74 to Part 5.

Wireless Communications Service (GN Docket No. 96-228)

On November 12, 1996, in response to Section 3001 of the recently enacted Omnibus Consolidated Appropriations Act of 1997, the Commission released a *Notice of Proposed Rule Making* proposing to reallocate the 2305-2320 MHz and 2345-2360 MHz bands, which were then allocated for the Digital Audio Radio Service (DARS), to the fixed, mobile, and radiolocation services on a primary basis and to retain the primary broadcasting-satellite allocation at 2310-2320 MHz and 2345-2360 MHz. The Commission also proposed to establish a Wireless Communication Service under a new Part 27 of the Rules, to contain the service and licensing rules for services to be licensed in the reallocated spectrum.

On February 19, 1997, the Commission released a *Report and Order* reallocating the 2310-2320 MHz and 2345-2360 MHz bands on a primary basis for fixed, mobile, radiolocation, and broadcasting-satellite (sound) services. The 2305-2310 MHz band was reallocated on a primary basis for fixed, mobile except aeronautical mobile, and radiolocation services. WCS licensees were afforded the flexibility to determine the specific services they will

provide within their assigned spectrum and geographic areas. In order to protect from interference the DARS service in the intervening 2320-2345 MHz band, however, the Commission imposed stringent out-of-band emission limits. These limits, the Commission warned, impose substantial risks that most mobile and mobile radiolocation uses would be severely limited or precluded and that fixed uses would require equipment that will meet higher technical standards and thus will be more costly than equipment used for similar purposes on comparable bands. On the other hand, the Commission decided not to impose any technical restrictions aimed at protecting MDS/ITFS services.

In addition, the Commission decided to divide the WCS spectrum into four channel blocks for licensing purpose: Block A (2305-2310 and 2350-2355 MHz); Block B (2310-2315 and 2355-2360 MHz); Block C (2315-2320 MHz); and Block D (2345-2350 MHz). For Blocks A and B, the Commission divided the United States into 46 Major Economic Areas, each of which will comprise a WCS service area. For Blocks C and D, the Commission divided the United States into 6 Regional Economic Area Groupings, each of which will comprise a WCS service area. Finally, the Commission adopted Part 27 to contain the service and licensing rules; the licensees are to be determined through a competitive bidding process.

On April 2, 1997, the Commission released a *Memorandum Opinion and Order* that responded to two petitions for reconsideration of the *R&O*. The Commission specified certain limits on WCS operating power and required that, for a limited time, WCS licensees assume responsibility under certain circumstances for interference they may cause to MDS/ITFS operations. In addition,

though reaffirming the original, stringent out-of-band emission limits as generally appropriate across the broad range of flexible WCS systems and uses, the Commission adopted an alternative, less stringent out-of-band emission limit for portable WCS transmitters in the 2305-2315 MHz band that meet specific power, duty cycle and other technical restrictions. As a result, WCS licensees will be able to offer a low power wireless local loop service, known as a Personal Access Communications System (PACS), in Blocks A and B.

Pioneer's Preference Review (ET Docket No. 93-266)

The Commission's pioneer's preference program was established in 1991 to provide a means of extending preferential treatment in the FCC's licensing processes to parties that demonstrated their responsibility for developing new spectrum-using communications services and technologies. Pursuant to GATT legislation, the pioneer's preference program had been scheduled to terminate on September 30, 1998. However, on August 5, 1997, the President signed into law the Balanced Budget Act of 1997. The Budget Act amended the Communications Act to advance the termination date of the pioneer's preference program to the date of enactment of the Budget Act, August 5, 1997. In response, on September 11, 1997, the Commission released an *Order* terminating its pioneer's preference program and dismissing all 13 pioneer's preference requests that remained pending before it. In the approximately six years of the program's existence, about 140 parties applied for pioneer's preferences in various services, and five applications for preferences were granted.

Millimeter Wave Allocation (ET Docket No. 94-124)

The *Report & Order and Second NPRM* in this proceeding was released in December 1995. The Commission authorized the bands 46.7-46.9 GHz and 76-77 GHz for unlicensed vehicle radar systems, such as collision warning and avoidance and lane guidance. The 59-64 GHz band was allocated for general unlicensed applications and devices such as computer-to-computer wireless connections. The item also proposed to restrict temporarily amateur radio operation in the 76-77 GHz band and to upgrade the status of amateur operations in the 77.5 - 78 GHz band to co-primary with the radio location service. The Commission proposed that industry develop a spectrum etiquette that would eliminate interference in the 59-64 GHz band. Industry representatives, operating as the Millimeter Wave Communications Working Group (MWCWG), responded by proposing its spectrum etiquette for OET's review.

The *Memorandum Opinion and Order* in this proceeding was released on August 14, 1997. The *MO&O* permits interim operation within the 59-64 GHz band using the etiquette proposed by the MWCWG. It also grants on reconsideration the request of Cutler Hammer, Inc. to permit the operation of fixed field disturbance sensors within this band. However, it denies the reconsideration sought by Vorad for a relaxation of the limit on spurious emissions from vehicle radar systems operating in the 46.7-46.9 GHz band.

As indicated above, operation at 30 GHz was considered a final frontier in 1948, yet developments in technology have continued to push the limit of useable spectrum well beyond that range even for commercial applications. Unlicensed vehicle ra-

dar systems, for example, have been an important initiative in the development of Intelligent Transportation Systems which will offer significant benefits to the American public by improving highway safety. Future uses of millimeter wave technology could include educational or medical applications, such as improved access to libraries or other information data bases.

Technical Requirements to Enable Blocking of Video Programming (V-Chip) (ET Docket No. 97-206)

In this *Notice of Proposed Rulemaking (NPRM)*, released September 26, 1997, the Commission proposed to amend Part 15 of its Rules to require that most television receivers be equipped with features enabling viewers to block the display of video programming with a common rating. Furthermore, the Commission proposed to amend Parts 73, 74, and 76 to ensure that ratings information associated with a particular video program is not deleted from transmission by broadcast television stations, low power television stations, television transfer and booster stations, and cable television systems. The Commission proposed as well that similar requirements be placed on other services that can be used to distribute video programming to the home, such as Multipoint Distributions Services and Direct Broadcast Satellite Service. This action was taken in response to the Parental Choice in Television Programming requirements contained in Sections 551 (c), (d), and (e) of the Telecommunications Act of 1996. The proposals in this *NPRM* were intended in particular to give parents the ability to block video programming which they judge to be unacceptable for their children.

Self-Authorization of Telecommunications Equipment (ET Docket No. 97-94)

The *Notice of Proposed Rule Making* in this proceeding, which was released on March 27, 1997, proposed to simplify the existing equipment authorization processes, to deregulate the equipment authorization requirements for many equipment types, and to provide for electronic filing of applications for equipment authorization. These actions will reduce the complexity and burden of the Commission's equipment authorization requirements on both industry and the Commission itself and will improve the efficiency of the equipment authorization process so that products can be introduced to the market more rapidly. Specifically, the Commission's action here would reduce the number of applications required to be filed with the Commission annually from about 3500 to approximately 1800, significantly reducing the paperwork requirements on manufacturers. The provision of electronic filing should reduce by more than half the current applications processing time of approximately 40 days.

Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices (ET Docket No. 94-45)

The *Report and Order* in this proceeding, which was released on February 12, 1997, relaxes and harmonizes the marketing rules applicable to radio frequency (RF) devices. These changes will provide manufacturers with greater flexibility in marketing their products by applying to all RF devices the same, less restrictive marketing regu-

lations that previously only applied to industrial, scientific and medical (ISM) devices and to certain types of digital devices.

In particular, the new rules allow all RF devices in the development, design or preproduction stages to be advertised, displayed, and offered for sale to distributors and retailers prior to a demonstration of compliance with the applicable technical standards and compliance with the applicable equipment authorization procedure. The new rules also eliminate the need for manufacturers to obtain from the Commission a developmental license or a special temporary authority to operate certain categories of products for particular purposes, including: compliance testing, demonstration at trade shows, and evaluation of performance and customer acceptability at the manufacturer's facilities or at a business, commercial, industrial, scientific or medical user's site during the product development stages.

The Commission anticipates that these changes will stimulate industry growth by decreasing the time required for a product to reach the marketplace and by permitting products to be developed on a cooperative basis by manufacturers and retailers.

Spread Spectrum Transmitters (ET Docket No. 96-8)

The *Report and Order* released on April 10, 1997, eliminates the limit on directional gain antennas for spread spectrum systems operating in the 2450 MHz and 5800 MHz bands, thus permitting greater transmission range for these systems. It also reduces, from 50 to 25, the minimum number of channels required for frequency hopping spread spectrum systems operating in the 915 MHz band,

thus permitting these systems to avoid operating on the same frequencies as wideband, multilateration Location Monitoring Service systems and decreasing the potential for mutual interference problems.

The Commission also adopted a number of amendments to clarify the existing regulations, to codify existing policies into the rules, and to update the current definitions. These changes to the rules will facilitate the growth of the spread spectrum industry by enabling and encouraging practical applications for these products. The new rules will expand the ability of equipment manufacturers to develop spread spectrum systems for unlicensed use. These systems will provide users with the flexibility to establish radio links without the delays and costs associated with formal frequency coordination and licensing. Such uses may include intelligent transportation system communications links; high speed Internet connections for schools, hospitals, and government offices; energy utility applications; PCS and cellular backbone connections; and T-1 common carrier links in rural areas.

Scanning Receivers

The Commission has put its technical expertise at the service of many outside entities, including Congress. The Commission responded to Congressional concerns about scanners being used to intercept cellular telephone calls by reviewing its equipment authorization and enforcement procedures. On July 10, 1997, OET issued a Public Notice announcing that modification of scanners on a substantial scale to receive cellular frequencies will be considered to constitute the manufacture of this equipment in violation of Section 302(d) of the Communications Act of 1934 (as amended).

Uniden Corp. filed a petition for rule making on February 3, 1997, requesting that the Commission modify its rules to provide a standard image rejection ratio to prevent interception of calls. The Petition was placed on *Public Notice* on February 7, 1997, and Uniden filed reply comments requesting the Commission also modify its rules to provide for hardening of scanning receivers to make it more difficult to modify their components.



Office of Plans and Policy

Overview



The Office of Plans and Policy (OPP) serves as the principal economic, technical, and policy advisor to the Commission, analyzing agenda items and developing long term policy on issues that cut across traditional industry and institutional boundaries. The Office also produces working papers on major policy issues

During FY97 OPP continued to encourage economic growth with an increased focus on new telecommunications technologies and the availability of advanced telecommunications facilities. OPP seeks to facilitate innovation in new telecommunications products and services, provide a sound economic basis allowing greater competition among providers, and promote market-oriented approaches to spectrum management.

Major Proceedings



Precluded Competitor Framework.

Took the lead in developing the Precluded Competitor framework for analysing mergers in transitional markets. This analysis led to the identification of potential anticompetitive effects in various proposed mergers and to the FCC's procompetitive conditions on the mergers. This analysis continues to be the basis of the analysis of ongoing investigations.

Reformed Access Charge Structure.

Worked with the Common Carrier Bureau to develop the reformed access charge structure in which access charges that were collected on a non-cost-causative basis were made more efficient. Among other long term benefits the access reform changes resulted in an immediate reduction in the basic long distance rates charged by the major interexchange carriers.

Advanced Television.

Participated in drafting DTV service rules, in particular providing analysis of likely diffusion pat-

terns for DTV receivers based on examination of the experience with color TV and other consumer electronics products.

Universal Service.

Worked with the Common Carrier Bureau in implementing section 254 of the Telecommunications Act of 1996. OPP played the lead role in developing, with the assistance of the Commission's Advisory Committee on Telecommunications and Health Care, policy recommendations for the Joint Board and the Commission on rural health care telehealth needs and was heavily involved with the Commission's Education Task Force. Following the Commission's May 8, 1997, decisions, OPP worked extensively with the Departments of Agriculture, Commerce, and Health and Human Service to inform the rural health care community about the Universal Service Program and its potential impact on improving access to health care in rural areas.

Spectrum Management

Provided leadership and analysis in support of economically efficient spectrum allocation and licensing policies for a wide range of rulemakings over the year dealing with different portions of the radio spectrum. In particular, OPP was a major participant in the development of a comprehensive allocation plan for the 36 GHz to 51.4 GHz band to accommodate emerging satellite and terrestrial uses. It similarly collaborated with the Wireless Telecommunications Bureau and Office of Engineering and Technology in the development of efficient service rules and licensing policies for the new Wireless Communications Service in the 2305-2320 and 2345-2360 MHz bands consistent

with Congressional directives. It also continued its support of research in efficient spectrum management policies. The Director of OPP co-chairs the FCC's Internal Spectrum Coordinating Committee that coordinates spectrum management activities across the Bureaus and Offices.

Spectrum Auctions.

As part of the Commission's commitment to continually improve the design and implementation of its spectrum auctions, OPP continued to advise the WTB on auction design, rules, procedures and the conduct of four auctions during FY97 (cellular unserved, Wireless Communications Service, satellite Digital Audio Radio, and 800 MHz Specialized Mobile Radio).

OPP played a leading role in developing the original auction rules and worked closely with the WTB in FY97 on generic auction rules to streamline the rule making process for future auctions. OPP staff worked with the WTB on the Congressionally mandated FCC report to Congress on Spectrum Auctions, including supervising a report by an outside consultant evaluating the FCC auctions.

OPP staff also managed a contract with academic auction experts on enhancements of the current FCC simultaneous multiple round auction design and an analysis of a new auction method -- combinatorial bidding. Among the enhancements that were introduced in FY97 as part of this project was "click box" bidding that eliminates the possibility of bid signalling through trailing digits in bid submissions. Finally, OPP took a leading role in analyzing alternative policy options for restructuring the terms of installment payments.

Internet

During FY97, OPP continued to lead the Commission's Internet policy efforts. OPP staff worked with the Common Carrier Bureau on several major items that considered the legal status of Internet services under the Communications Act. In particular, OPP helped develop portions of the Access Reform proceeding concerning Internet and interstate information services that use the public switched telephone network, leading to the Commission's decision to reaffirm that such providers would not be subject to interstate access charges.

In January 1997, OPP organized a public forum on access to bandwidth that brought together leading industry and public interest representatives to discuss policies for building the networks of the future. OPP also published a working paper surveying issues raised by the intersection of the Internet and telecommunications policy. To improve communication within the Commission on cross-cutting Internet issues, OPP formed the Internet Coordinating Committee, staffed by representatives of all the major Bureaus and Offices.

OPP staff are engaged in several ongoing projects to analyze emerging Internet access technologies and to identify any policy barriers that may exist to the deployment of new telecommunications technologies and services.

Global Telecommunications Reform.

OPP has also continued to provide support on initiatives which advance the Commission's commitment to foster competition in international telecommunications.

OPP worked with an interagency task force on electronic commerce to ensure that the importance of open markets for telecommunications services for electronic commerce was recognized. OPP staff have also given numerous briefings and presentations to international visitors and groups promoting the success of market-based telecommunications policy in the United States and advocating the benefits of national and global competition in telecommunications.



Reliability and Security of the National Information Infrastructure

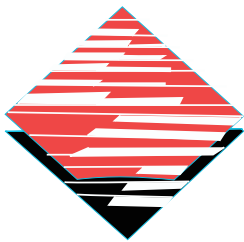
The U.S. economy is becoming increasingly dependent upon our telecommunications infrastructure. OPP has worked with industry and various federal agencies to improve the reliability and security of that infrastructure. OPP is working with the FCC's Network Reliability and Interoperability Council, the National Security Telecommunications Advisory Committee, the President's Commission on Critical Infrastructure Protection, other federal agencies, and other organizations to identify how the nation's networks can be made less vulnerable to malicious hackers, natural disasters, system malfunctions, and other disruptions.

Electronic Filing

OPP spearheaded the Commission's electronic comment filing effort, working closely with the Office of Public Affairs and Office of the General Counsel. This should further the FCC's goal of making its policy making process more transparent and more accessible to the broadest possible community.

Office of General Counsel

Overview



The Office of General Counsel serves as the chief legal advisor to the Commission and to its various Bureaus and Offices. The Office of General Counsel also represents the Commission in litigation in federal courts, recommends decisions in adjudicatory hearing matters before the Commission, assists the Commission in its decision-making capacity, and performs a variety of legal functions regarding internal and other administrative matters.

The Office of General Counsel has three Divisions:

The **Administrative Law Division** provides the Commissioners and the agency's Bureaus and Offices with legal advice on a broad range of communications and general administrative law issues. Its attorneys and paralegals also provide the public with legal information on such matters. The Division reviews all draft Commission decisions for legal sufficiency. Division staff members provide legal advice to the Commission concerning a wide array of statutes, regulations, and procedures, including, for example, the Communications Act of 1934, as amended by the Telecommunications Act of 1996, the Administrative Procedure Act, the Freedom of Information Act, the Privacy Act, the Regulatory Flexibility Act, the Paperwork Reduction Act of 1995, the Government in the Sunshine Act, the Contract with America Advancement Act of 1996, negotiated rulemaking, alternative dispute resolution, the Commission's procedural rules, procurement issues, and the agency's *ex parte* and ethics

rules. The Division staff is available to answer inquiries from the public concerning these matters. The Division also drafts all Commission decisions involving matters on review from Administrative Law Judges, Freedom of Information Act applications for review, and regulatory and filing fee applications for review.

The **Competition Division** works to ensure a sustained focus on, and a rigorous and consistent analysis of, competitive and economic issues throughout the Commission. Its attorneys and economists team with Bureau staff in the production of draft Commission decisions and those reports that assess the competitive status of various telecommunications markets. The Division reviews draft Commission decisions for both legal sufficiency and consistent competitive analysis, particularly in light of the Telecommunications Act of 1996. The Division also assists senior officials in the articulation of policy issues and is responsible for implementing changes in the Public Utility Holding Company Act of 1935 relating to interests in an exempt telecommunications company (ETC).

The **Litigation Division** represents the Commission in Federal courts of appeals when parties challenge Commission actions, and, in conjunction with the United States Department of Justice and United States Attorneys offices, represents the Commission in litigation in Federal district courts. In addition, Litigation Division attorneys work with the Solicitor General of the United States in representing the Commission in actions in the United States Supreme Court.

Major Proceedings



OGC reviewed more than 450 draft decision documents presented to the Commission by Bureaus and Offices. OGC also granted 20 requests for public utility holding companies to participate as Exempt Telecommunications Companies pursuant to the Commission's action implementing Section 34(a)(1) of the Public Utility Holding Company Act of 1935, as added by Section 103 of the Telecommunications Act of 1996.

OGC prepared and submitted for Commission consideration 32 hearing, rulemaking, FOIA and other draft decision documents. OGC participated on behalf of the Commission in more than 400 federal appeals and Supreme Court proceedings, and 60 federal district court cases. OGC drafted 52 appellate briefs and participated in 31 oral arguments, while also assisting the Department of Justice in numerous cases pending before federal district courts and the Supreme Court.

Among the significant Commission documents drafted by the Office of General Counsel during FY97 were the following:

***Ex Parte* Report and Order**

The Commission adopted a *Report and Order* that amended the rules governing *ex parte* presentations in proceedings before the Commission to make those rules simpler and clearer, to make compliance with the rules easier, and to enhance their effectiveness in promoting fairness in Commission proceedings. The *ex parte* rules, which ensure the fairness and integrity of the Commission's decision-making process, now provide that certain specified matters are exempt (where *ex parte* presentations may be made freely) or permit-but-disclose (where *ex parte* presentations are permissible subject to certain disclosure requirements) and that all other matters are restricted (where *ex parte* presentations are generally prohibited).

Market Entry Barriers Study

The Commission adopted a *Report* concerning its implementation of Section 257 of the Communications Act, which requires the Commission to identify and eliminate market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services. The *Report* summarized the Commission's strong commitment to continue to achieve the goal of Section 257 to promote policies favoring diversity of voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience and necessity. The *Report* listed the actions that the Commission has taken to identify and eliminate market entry barriers for small business, to remove or reduce impediments, and to increase opportunities for small business participation in the telecommunications market.

Significant Court Decisions

AT&T Corp. v. FCC, No. 96-1147, 113 F.3d 225 (D.C. Cir. 1997)

The Court affirmed the FCC's clarification of rules, the effect of which was to prohibit long-distance carriers (such as AT&T) from using "billing name and address" information obtained from local exchange carriers for marketing long-distance service. The Commission's rule and its clarification balanced subscriber privacy interests against the interests of long-distance carriers in having information to aid in their call tracking and billing activities.

Competitive Telecommunications Assn v. FCC, No. 96-3604, 117 F.3d 1068 (8th Cir. 1997)

The Court affirmed the FCC's decision to allow incumbent local exchange carriers, for an interim period, to assess some kinds of access charges on new competitive local exchange carriers who bought unbundled elements of the existing local network from the incumbents and used them in providing competitive access services. The Court held that assessing access charges in addition to the charges for the unbundled elements was a permissible transitional measure to avoid possible harm to universal service before the Commission could adopt new universal service rules.

DIRECTV, Inc. v. FCC, No. 96-1001, 110 F.3d 816 (D.C. Cir. 1997)

The D.C. Circuit denied petitions for review of FCC rules and regulations to auction DBS chan-

nels reclaimed from Advanced Communications Corporation instead of distributing those channels on a pro rata basis among existing DBS permittees, as the Commission previously had provided. The Court held that the Commission's decision to auction the channels was not retroactive, arbitrary and capricious or without statutory authority. The Court also held that the FCC's one-time requirement compelling the winning bidder to divest itself of its existing DBS channels was reasonable.

Illinois Public Telecomm. Assn v. FCC, No. 96-1394, 117 F.3d 555, clarified, 123 F.3d 693 (D.C. Cir. 1997)

The Court affirmed Commission rules requiring the rates for pay telephone calls (including purely local calls) to be determined by market forces rather than by federal or state regulation. The Court also affirmed rules requiring long-distance carriers to pay compensation to payphone providers for calls initiated on their phones, including calls to 800 numbers. The Court vacated other rules (1) setting the payments for long-distance calls at the level determined by the market for local coin calls, and (2) requiring certain accounting treatment of payphone assets transferred by telephone companies to affiliated companies.

Iowa Utilities Board v. FCC, No. 96-3321, 120 F.3d 753 (8th Cir. 1997), petitions for certiorari pending

The Court struck down Commission rules setting pricing standards for interconnection between existing local exchange carriers and would-be competitors. The Court held that the 1996 Telecommunications Act had given authority over intercon-

nection pricing exclusively to the states. The Court also affirmed some substantive rules governing non-pricing interconnection matters and struck down others. The Commission has asked the Supreme Court to review the Eighth Circuit decision.

Southwestern Bell Tel. Co. v. FCC, No. 95-1193, 116 F.3d 593 (D.C. Cir. 1997)

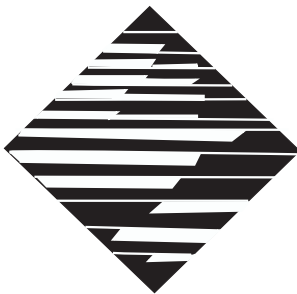
The Court affirmed the Commission's determination that several local exchange carriers (including Southwestern Bell) had violated FCC rules by assessing improper access charges on resellers of 800 service. The FCC's rules permitted the higher terminating charge on only one end of a call; but the LECs had assessed two terminating charges on certain reseller calls rather than one originating charge and one terminating charge. The LECs were required to make refunds.

Time Warner Entertainment Co., L.P. v. FCC, No. 93-5349, 93 F.3d 957 (1996), reh. denied, 105 F.3d 723 (D.C. Cir. 1997)

The D.C. Circuit rejected a series of constitutional challenges to various provisions of the 1992 and 1984 Cable Acts, affirming in part and reversing in part a district court decision. The provisions included requirements for leased access and public, educational and governmental channels; rate regulation, obscenity liability, premium channel preview notice, vertically integrated programming, municipal immunity and provisions requiring direct broadcast satellite providers to set-aside a portion of their channels for educational and informational programming.

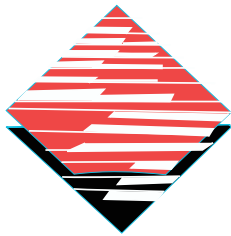
Turner Broadcasting System, Inc. v. FCC, No. 95-992, 117 S.Ct. 1174 (1997), affirming, 910 F.Supp. 734 (D.D.C. 1995)

The Supreme Court affirmed a decision of a special three-judge district court panel that had rejected First Amendment challenges to the provisions of the 1992 Cable Act requiring cable television systems to carry certain local broadcast stations. The Supreme Court concluded that the “must-carry” requirements further, in a direct and effective way, important governmental interests of preserving the benefits of free, over-the-air local television broadcasting, promoting widespread dissemination of information from a multiplicity of sources, and promoting fair competition in the television programming market. The Court also found that the “must-carry” provisions do not burden substantially more speech than necessary to further the governmental interests they are intended to promote.



Office of Legislative and Intergovernmental Affairs

Overview



The Office of Legislative and Intergovernmental Affairs (OLIA) informs the Congress of the Commission's decisions, prepares Commission witnesses for congressional hearings, coordinates responses to congressional inquiries, drafts Commission legislative proposals, analyzes and comments on other proposed legislation, assists in the coordination of the Commission's annual budget and appropriations legislation, and acts as liaison between the Commission and other Federal, state and local government agencies.

Enacted Laws

During FY97 the Congress enacted six laws directly affecting, or of interest to, the Commission. These six laws included legislation: (1) providing for public access to information in an electronic format; (2) requiring a report to Congress on government payments to telecommunications carriers intercepting communications; (3) protecting volunteers assisting the government, such as the FCC's volunteer frequency coordinators, against legal liability; (4) rescinding \$1 million of the FCC's FY96 appropriation; (5) amending and extending the Commission's spectrum auctions authority; and (6) approving

continuing appropriations for the Commission through October 23, 1997. A more detailed, chronological listing follows:

1. PL 104-231(HR 3802):

“Electronic Freedom of Information Act Amendments of 1996.” Clarified that government records maintained in electronic format must be made available under the Freedom of Information Act. Required agencies redacting electronic records (i.e., deleting part of a record to prevent disclosure of material covered by an exemption under FOIA) to note the location and the extent of any deletions made on a record. Authorized both expedited and “multitrack” processing for certain FOIA requests. Extended from 10 to 20 workdays the statutory deadline for responding to initial FOIA requests. This bill was signed into law on October 2, 1996.

2. PL 104-316 (HR 3864):

“General Accounting Office Act of 1996.” Amended the “Communications Assistance for Law Enforcement Act” (“CALEA”) to require the Comptroller General of the United States and “every two years thereafter,” the Inspector General of the Department of Justice, to submit to the Congress, “after consultation with the Attorney General and the telecommunications industry,” a report on payments by the Attorney General to telecommunications carriers for interception of communications done pursuant to CALEA. This bill was signed into law on October 19, 1996.

3. PL 105-18 (HR 1871):

“Emergency Supplemental and Rescission Appropriations.” Rescinded \$1,000,000 from the

Commission’s “unobligated balances available” to the agency under its FY97 appropriation account. This bill was signed into law on June 12, 1997.

4. PL 105-19 (S 543):

“Volunteer Protection Act of 1997.” Preempted state law to provide that volunteers, such as the FCC’s volunteer frequency coordinators, will not be liable for harm if: (1) they were acting in the scope of their volunteer activity; (2) they were properly licensed (if necessary); (3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the claimant; and (4) the harm was not caused by the volunteer operating a vehicle. The law, however, does not exclude from potential liability any misconduct which constitutes a crime of violence, an act of international terrorism, a hate crime, a sexual offense, a violation of a civil rights law, or where the volunteer was under the influence of drugs or alcohol. This bill was signed into law on June 18, 1997.

5. PL 105-33 (HR 2015):

“Balanced Budget Act of 1997.” Enacted over 20 communications and spectrum allocation provisions as part of this omnibus budget reconciliation law, including: (1) authorized FCC to retain auction revenues only if it provides Congress an itemized list of auctions-related expenses; (2) prohibited the FCC from renewing any analog TV broadcast license beyond December 31, 2006, unless at least one network-affiliated station is not broadcasting a digital TV service signal to that market, digital-to-analog converter technology is not “generally available” in that market, or fewer than 85% of TV households in that market sub-

scribe to a multichannel video service; (3) authorized an FY2001 appropriation of approximately \$3 billion to the Universal Service Fund, but required the money be returned to the Treasury in FY2002 (provision later repealed in FCC's FY98 appropriation to be reported in the FY98 Annual Report); (4) exempted from auctions "public safety radio services...used by State and local government officials and non-government entities" that are used to protect the safety of life, health, or property and are not made commercially available to the public; (5) required the FCC to reallocate 24 MHz of spectrum between 746 and 806 MHz for public safety services, to commence the assignment of public safety licenses no later than September 30, 1998, and to assign a portion of this spectrum by competitive bidding after January 1, 2001; and (6) required the FCC to set a "reasonable reserve price" or minimum bid for the auction of any license, unless the Commission determines that such a reserve price or minimum bid is not in the public interest.

Other provisions included: (7) authorized the FCC for the first time in its history to auction broadcast licenses, i.e., mutually exclusive broadcast license applications filed before July 1, 1997, and required the FCC to waive its settlement rules for 180 days after enactment to allow pre-July 1 applicants an opportunity to settle their competing claims; (8) required the FCC to "seek to assure," consistent with the Commission's plan for allotments for digital television service, that each existing, qualifying low power TV station is assigned a frequency below 746 MHz to permit continued operation of such low power TV stations; (9) authorized a limited waiver of the FCC's duopoly rule, i.e., the rule prohibiting one company from owning two TV stations or both a newspaper and a TV station in one market, in cities with a population of 400,000 or more, so that broadcasters and newspaper owners

in those cities can bid on reclaimed analog spectrum and use it to provide a digital channel in their markets; (10) extended the Commission's auction authority through September 30, 2007, and repealed the FCC's authority to select licensees through a system of "random selection" or lotteries; (11) required the FCC to reallocate for competitive bidding an additional 55 MHz of spectrum by September 30, 2002, 40 MHz in the 2110-2150 MHz frequency band, and 15 MHz in the 1990-2110 MHz band; (12) authorized any Federal entity to accept reimbursement for the costs of relocating from government spectrum that is reallocated to mixed or non-government use; (13) exempted from auctions initial licenses for digital TV service given to existing terrestrial broadcast licensees to replace their analog TV licenses; (14) required the FCC to complete six auctions by September 30, 2002; (15) required that the FCC comply with the requirements of international agreements concerning spectrum allocations in making additional spectrum available by competitive bidding; and (16) accelerated the termination date of the Commission's "pioneer preference" program from September 30, 1998, to the date of enactment of the budget reconciliation law. This bill was signed into law on August 5, 1997.

6. PL 105-46 (HJRes 94):

"Continuing Resolution." Approved continuing appropriations for the Commission and other related agencies in the Commerce, Justice, State appropriations bill through October 23, 1997. This bill was signed into law on September 30, 1997.

Legislative Program

In May 1997 the Commission submitted a legislative package to the Congress consisting of 20 pro-

posals, including one to reauthorize the Commission for FY98 and FY99. A number of the other proposals such as a general forbearance authority, buyout authority, and the authorization of unlicensed radio stations, were deregulatory or pro-competitive in nature in that their enactment would eliminate certain FCC functions, privatize other responsibilities, reduce regulatory burdens on industry, increase telecommunications competition, save agency resources, or otherwise streamline agency processes. This legislation was still pending at the end of FY97.

In September 1997 the Commission also submitted to the Congress two additional legislative proposals: first, the Commission proposed a bill to clarify existing bankruptcy law that wireless licensees who default on their auction installment payments may not use bankruptcy litigation to refuse to relinquish their spectrum licenses for reauction; second, the FCC submitted a bill recommended to it by a federal advisory committee, the Network Reliability and Interoperability Council, to sanction parties who fail to notify owners of telecommunications facilities of digging activity that results in major telecommunications service outages. Both of these bills were also pending at the end of FY97.

Other Legislative Activities

During FY97 the Office of Legislative and Intergovernmental Affairs also:

- Coordinated the preparation of testimony, briefing material, and follow-up responses for a number of oversight and legislative hearings on matters such as cellular privacy, spectrum management policy, universal service implementation, FY98 appropriations, World Trade Organization agreements, the FCC's move to the Portals, international satellite reform and regulation, TV violence and a TV rating system, public safety spectrum legislation, "slamming" of telephone customers, the transition from analog to digital TV, the state of competition in the cable and telecommunications industries, and confirmation of new FCC Commissioners.
- Monitored and reported actions taken at Committee mark-ups, in Conference Committees and on the House and Senate floors of interest to the Commission on matters such as TV ratings, taxation of the Internet, "emergency supplemental rescission appropriations," FY98 appropriations, Continuing Resolutions, and the Balanced Budget Act of 1997.
- Coordinated and participated in informational briefings for Members of Congress and their staff on a wide variety of mass media and telecommunications issues.
- Prepared both formal and informal comments for both the Congress and the Office of Management and Budget on pending communications legislation.
- Coordinated Congressional liaison activities. Processed 7690 written Congressional inquiries, and thousands of telephone inquiries on a variety of matters, including implementation of the Telecommunications Act of 1996, cable TV regulation, radio tower siting policy, the placement of satellite dishes, implementation of the Satellite Home Viewer Act, and various other FCC policy matters. Checked the status of hundreds of applications for frequencies, construction or modification of facilities, and special temporary operating authority.