

Calendar No. 268

108TH CONGRESS }
1st Session

SENATE

{ REPORT
108-140

FCC REAUTHORIZATION ACT OF 2003

R E P O R T

OF THE

**COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

ON

S. 1264



SEPTEMBER 3, 2003.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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Mr. MCCAIN, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1264]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1264) “to reauthorize the Federal Communications Commission, and for other purposes”, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 1264 is to reauthorize the Federal Communications Commission (FCC or Commission) and make certain policy modifications through Fiscal Year 2008 so that the agency may continue to carry forth its charge to ensure interference-free communication on interstate and international radio, television, wire, satellite, and cable communications.

BACKGROUND AND NEEDS

The FCC, an independent United States government agency formed to regulate interstate and foreign communications, was established under the Communications Act of 1934 to replace the former Federal Radio Commission. The Communications Act provided the FCC broad latitude to establish “a rapid, efficient, Nation-wide, and world-wide wire and radio communication service”. When established, the FCC had three divisions (Broadcast, Telegraph, and Telephone) led by seven Commissioners and 233 Federal employees.

Today, the FCC has approximately 2,000 full-time employees directed by five Commissioners who are charged with regulating interstate and international communications by radio, television,

wire, satellite, and cable. The agency's jurisdiction covers the 50 States, the District of Columbia, and United States' possessions. The Commission has not been authorized since 1991.

LEGISLATIVE HISTORY

On June 4, 2003, the Senate Committee on Commerce, Science, and Transportation held a hearing entitled, "FCC Oversight", during which the Committee heard testimony from each of the five FCC Commissioners. On June 13, 2003, Senators McCain and Hollings introduced S. 1264, a bill to reauthorize the FCC. On June 26, 2003, the Committee held an executive session at which S. 1264 was considered. The bill was approved unanimously by voice vote and was ordered reported with amendments, including: an amendment offered by Senators McCain and Hollings to expand the reauthorization period to 5 years; an amendment offered by Senator Hollings to enhance enforcement rules prohibiting the broadcast of obscene or indecent matters; an amendment offered by Senator McCain requiring the FCC to provide guidance regarding its political advertising regulations; an amendment offered by Senator Stevens requiring the FCC to implement a rulemaking on the operation of digital television translators and on-channel repeaters; an amendment offered by Senator Sununu to provide a quadrennial review of media ownership rules by the FCC; and, an amendment to phase out the 50 percent discount for Ultra High Frequency (UHF) television broadcast stations when counting stations toward the national ownership limit.

ESTIMATED COSTS

In compliance with subsection (a)(3) of paragraph 11 of rule XXVI of the Standing Rules of the Senate, the Committee states that, in its opinion, it is necessary to dispense with the requirements of paragraphs (1) and (2) of that subsection in order to expedite the business of the Senate.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1264 would reauthorize the FCC through Fiscal Year 2008 and is intended to make changes to the Communications Act of 1934. The number of persons covered by this legislation should be consistent with current levels.

ECONOMIC IMPACT

S. 1264 would authorize the appropriation of funds for the FCC's programs. These programs are intended to establish regulatory policies that promote competition, innovation, and investment in broadband services, ensure that a comprehensive and sound na-

tional competitive framework for communications services exists, encourage the best use of spectrum domestically and internationally, and provide leadership for the rapid restoration of the nation's communications infrastructure in the event of disruption. S. 1264 will have no negative economic impact.

PRIVACY

S. 1264 is not expected to have an adverse effect on the personal privacy of any individuals that will be impacted by this legislation.

PAPERWORK

S. 1264 would have a minimal impact on current paperwork levels, and seeks to reduce the amount in some areas. Though the legislation would require the FCC to perform a review of the e-rate program and submit a report to the Congress for each of Fiscal Years 2004 through 2008, the bill also would lengthen the duration between mandated reviews of the FCC's media ownership rules, which had previously placed significant administrative burdens on the Commission.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Amendment of Communications Act of 1934.

This section provides that the act may be cited as "The FCC Reauthorization Act of 2003", and sets forth the purpose of the bill, which is to reauthorize the FCC through 2008.

Sec. 2. Authorizations of Appropriations.

This section would authorize funding for the FCC for Fiscal Years (FY) 2004 through 2008. The President's budget requests \$280,798,000 for the FCC in FY 2004. This bill would authorize the appropriation of \$500,000 above the President's FY 2004 budget to pay for travel-related expenses previously paid by outside sponsors. (See Section 7 of the bill entitled, "Ban on Reimbursed Travel Expenses".)

For FY 2005, the bill would authorize funding for the FCC at \$299,500,000, which assumes a five percent level of year-over-year inflation and again provides \$500,000 for travel related expenses. For FY 2006, FY 2007, and FY 2008, the bill would authorize funding for the FCC at a five percent increase over the respective previous year's funding.

Section 2 also would require that application fees received under section 8 of the Communications Act of 1934 (47 U.S.C. 158) be deposited as an offsetting collection in, and credited to, an account providing appropriations to carry out the functions of the Commission. This change would make the collection of application fees consistent with the collection of regulatory fees collected under Section 9 of the Communications Act of 1934 (47 U.S.C. 159).

Sec. 3. Audits and Review of E-Rate Beneficiary Compliance with Program Requirements.

This section would direct the FCC to conduct a review into the activities authorized by Section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)), commonly referred to as "e-rate", and the operations of the National Education Technology Funding Cor-

poration established by section 708 of the Telecommunications Act of 1996. The review would be conducted to determine whether specific fraud or abuse of Federal funds has occurred in connection with such activities or operations. The Commission would be required to transmit a report of its findings and conclusions to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the anniversary of the bill's enactment for each year between 2004 and 2008. The bill would authorize the FCC to allocate such sums as may be necessary to perform audits of the e-rate program.

Sec. 4. Clarification of Congressional Intent with Respect to Biennial Review Modifications; Frequency of Review.

This section would modify Section 202(h) to require the FCC to conduct a review of its media ownership rules once every four years, and to specifically allow the FCC to repeal, strengthen, limit, or retain its media ownership rules during each 202(h) review if it determines such changes to be in the public interest. Section 202(h) of the Telecommunications Act of 1996 Act sets forth the timing and the standard the FCC shall use for reviewing its media ownership rules. Currently, 202(h) requires the FCC to review its rules every two years. Section 4 would change that requirement to every four years. Some courts have interpreted Section 202(h) to carry “with it a presumption in favor of repealing or modifying ownership rules” as part of “a process of deregulation” set in place by the Telecommunication Act 1996 Act. *Fox Television Stations Inc. v. FCC*, 280 F.3d 1027, 1048 (D.C. Cir. 2002); *Sinclair Broad. Group, Inc. v. FCC*, 284 F.3d 148, 152 (D.C. Cir. 2002). When the FCC Commissioners appeared before the Committee on June 4, 2003, several of the Commissioners agreed that section 202(h) allows the FCC to strengthen or repeal its broadcast ownership rules, but requested clarification from Congress. This section would provide such clarification.

Sec. 5. FCC Enforcement Enhancements.

This section would increase the Commission's ability to enforce the Communications Act of 1934 by generally raising the statutory cap on Commission fines and forfeitures by a factor of ten. The Commission has sought this increased enforcement ability to ensure communications providers do not accept Commission fines as a “cost of doing business.” These fines and forfeitures have not been increased since 1991, except for an annual adjustment for inflation mandated by The Debt Collection Act of 1966.

Specifically, this section would increase the maximum fines against broadcast station licensees or permittees, cable television operators or any other multi-channel video distributors, or an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument or authorization issued by the Commission from \$25,000 for each violation or each day of a continuing violation to \$250,000 not to exceed \$2,500,000 (currently set at \$250,000). This section would increase the maximum fines against common carriers, or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission from \$100,000 for each violation or each day of a continuing violation to \$1,000,000 not to exceed

\$10,000,000 (currently set at \$1,000,000). For operators not covered above, this section would increase the maximum fines from \$10,000 for each violation or each day of a continuing violation to \$100,000 not to exceed \$750,000 (currently set at \$75,000).

This section also would increase the statute of limitations for violations of the Communications Act of 1934 from one year to two years, and would allow the Commission to assess fines against direct broadcast satellite (DBS) operators for violations of the Communications Act of 1934 in the same manner that the Commission today may assess fines against broadcasters and cable operators.

This section also would provide the FCC with the ability to seize equipment where a person engages in malicious interference in violation of Section 333 of the Communications Act of 1934 (47 U.S.C. 333). Section 333 makes it unlawful for a person to willfully or maliciously interfere or cause interference to any radio communication. Currently, the Communications Act of 1934 allows the Commission, through the Department of Justice, to seize equipment only in cases where a person is operating without a license, or is selling, marketing, or using uncertified equipment. This section would provide a third condition under which the Commission would be allowed to seize equipment.

For example, the Commission has had cases involving licensed amateur radio operators who willfully or maliciously jam other amateurs' signals. Some of these violations pose potential public safety threats. The Commission has had cases where recreational or commercial boaters have used licensed marine radios to jam United States Coast Guard frequencies as well as frequencies used by other boaters. Seizure of equipment would be a valuable enforcement tool in these instances, particularly where those causing the interference fail to respond to less severe enforcement action, such as fines, or where the interference affects public safety.

Sec. 6. Application of Communications Act with Bankruptcy and Similar Laws.

This section would prevent successful bidders for spectrum at FCC auctions from avoiding their obligations to the Federal government by filing for bankruptcy. Language in Section 6 would ensure that bankruptcy laws shall not be used to—

- Avoid, discharge, stay, or set-off any pre-petition debt obligation arising from an auction of licenses;
- Prevent payment obligations of the debtor to the United States if such payments were a condition of receiving the license; or
- Allow for the automatic cancellation of licenses for failure to comply with any monetary or non-monetary condition for holding any license, such as owing a payment on an installment payment plan to the United States for a license.

Further, the bill would prevent a debtor/licensee from having any right or interest in the proceeds of an auction of any license reclaimed by the Commission for failure to pay the United States.

This section also would provide the Commission with the authority to establish rules and procedures governing security interests in licenses, or the proceeds of the sale of licenses, and to establish an office within the Office of the Secretary of the FCC for the recording and perfection of security interests in licenses for spectrum by

the FCC and private creditors without regard to otherwise applicable State law.

Sec. 7. Ban on Reimbursed Travel Expenses.

This section would prevent FCC employees from accepting direct or indirect reimbursement from a non-governmental sponsor of any convention, conference, or meeting for travel expenses. However, the section would allow the Commission to establish a *de minimis* exception to this reimbursement ban so that FCC officials or employees may have a soda, a snack, a meal, etc. while attending a convention, conference, or meeting.

Sec. 8. Application of One-Year Restrictions to Certain Positions.

This section would require Commission employees who serve in certain positions to be treated, for purposes of applying limitations on post-employment contact with the agency, the same as a person employed at level five of the Senior Executive Service. This section in effect would prevent Commission employees who serve in certain positions of authority at the Commission, or successor positions, from lobbying employees at the Commission until a one-year “cooling off” period has passed without regard to their level of pay.

Sec. 9. Video Description Rules Authority.

This section would provide the Commission with the authority to reinstate, within 90 days after the enactment of the bill, its video description rules vacated by the *District of Columbia Circuit Court of Appeals in Motion Picture Association of America, Inc., et al, v. Federal Communications Commission, et al*, 309 F.3d 796 (D.C. Cir. 2002). The Committee intends that the FCC would be allowed to include, when reinstating its rules within 90 days, subsequent modifications it had made to its original rules. *See Implementation of Video Description of Video Programming, Memorandum Opinion and Order on Reconsideration*, 16 F.C.C. Rcd. 1251 (Jan. 18, 2001). This section also would provide the FCC with authority to make additional changes to its video description rules. Video description is often provided over a second audio program (SAP) channel. The Committee is mindful that there are other uses of the SAP channel, such as the broadcast of Spanish or other language translation of programming and the broadcast of reading services for the visually impaired, that are beneficial to the community. The Committee expects the FCC to balance the benefits of these services with the provision of video description service in formulating its rules.

This section also would require the FCC to initiate a proceeding, within 180 days after the enactment of the bill, to consider whether it is economically and technically feasible and consistent with the public interest to include “accessible information” in its video description rules. “Accessible information” may include written information displayed on a television screen during regular programming, hazardous warnings and other emergency information, local and national news bulletins, and any other information the Commission deems appropriate.

Sec. 10. Political Broadcasting Regulations Review.

This section would require the Commission to complete a rule-making August 1, 2004, to provide additional guidance to broad-

casters by and cable television systems about how to comply with existing obligations to identify the true sponsors of political ads and to establish procedures for dealing with complaints about violations of the FCC's existing regulations regarding political ads.

47 C.F.R. 73.1212 and 47 C.F.R. 76.1615 require broadcast stations to announce the true identity of the person or entity paying for advertising and to exercise "reasonable diligence" to obtain information that will enable them to make this required announcement. Similar requirements exist for cable television system operators. This section asks the Commission to provide guidance as to what constitutes an exercise of reasonable diligence, because current FCC regulations provide little guidance. This presents a particular problem in the context of political matter and issue advertising, where groups sponsoring negative advertising may operate under pseudonyms that conceal their true sponsors.

This section also would require the FCC to create procedures for handling complaints concerning violations of its existing regulations on advertisements regarding political matter and issue advertisements, including the following:

SPONSORSHIP IDENTIFICATION. These regulations require broadcast stations and cable television operators to announce the true identity of sponsors of political matter and issue advertising and, in the case of broadcast stations, maintain for public inspection a list of the CEOs or boards of directors of groups that pay for such advertising (47 C.F.R. 73.1212 and 76.1615);

EQUAL ACCESS FOR CANDIDATES. These regulations require broadcast stations and cable television systems to afford equal access to their facilities to legally qualified candidates for public office (47 C.F.R. 73.1940, 73.1941 and 76.205);

CANDIDATE RATES. These regulations require broadcast stations and cable television systems to provide the "lowest unit charge" for certain candidate advertising (47 C.F.R. 73.1942 and 76.206);

POLITICAL FILE. These regulations require broadcast stations and cable television systems to keep and permit public inspection of a political file containing all requests for broadcast time made by or on behalf of a candidate for public office (47 C.F.R. 73.1943 and 76.1701); and

REASONABLE ACCESS. These regulations allow for the revocation of a station license for willful or repeated failure to allow reasonable access to, or permit purchases of reasonable amounts of time for, the use of a broadcasting station by a candidate for Federal office (47 C.F.R. 73.1944) and require DBS providers to provide reasonable access to, or purchases of reasonable amount of time for the use of, their facilities by candidates for Federal office and equal opportunities to legally qualified candidates (47 C.F.R. 25.701(b)).

Sec. 11. Special Rules for Indecent Broadcasting.

This section would amend section 503 of the Communications Act of 1934 (47 U.S.C. 503) by adding a new section that would affect the FCC's enforcement of broadcasts that are obscene or indecent. It is a violation of Federal law to broadcast obscene or indecent programming. Specifically, title 18 of the United States Code, sec-

tion 1464, prohibits the utterance of “any obscene, indecent, or profane language by means of radio communication”. Congress has given the Commission the responsibility for administratively enforcing that section. In doing so, the Commission may, among other things, impose a monetary forfeiture pursuant to section 503(b)(1) of the Communications Act. Pursuant to the new section, if a broadcast includes obscene or indecent matter from more than one individual during the same program, the FCC must treat the obscene or indecent matter from each individual as a separate violation.

This section also would require the Commission to commence a license or construction permit revocation proceeding against a broadcaster if the Commission has reason to believe that the broadcaster has violated section 1464 of title 18. The Committee expects the circumstances under which the Commission would have reason to believe that a broadcaster has committed such a violation to be limited to those in which the Commission has issued a forfeiture order against a broadcaster or issued a Notice of Apparent Liability (NAL) that has been paid by the respective broadcaster. The Committee expects the Commission to proceed expeditiously in addressing indecency enforcement actions, consistent with the due process rights of broadcasters. This section would also change the presumption in any such revocation hearing by requiring the Commission to revoke a license or construction permit unless the Commission determines that such action would not be in the public interest. The Committee expects the Commission to give substantial weight in any such revocation hearing to whether the broadcaster has committed repeated violations of the indecency or obscenity laws and remedial efforts by the broadcaster.

Sec. 12. Phase-Out of UHF Discount.

The FCC’s rules prohibit any one entity from controlling commercial broadcast television stations where the combined audience reach exceeds 45 percent of the nation’s television households. See 47 C.F.R. § 73.3555(e). In developing the national broadcast television ownership cap, the FCC determined that Ultra High Frequency (UHF) stations should be counted as half that of a Very High Frequency (VHF) station. (See 47 C.F.R. § 73.3555(e)(2)) This is known as the “UHF discount”. The UHF discount is intended to recognize that deficiencies in over-the-air UHF reception result in fewer households receiving the signal in comparison to VHF broadcasts. Nevertheless, since 1985, when the UHF discount was enacted, improvements in technology, greater carriage of UHF stations on MVPDs, and the impact of the DTV transition have led many to argue that the current rule is no longer warranted.

This section would eliminate the FCC’s use of the UHF discount for any broadcast television station granted, transferred, or assigned after June 2, 2003. The amendment also would “sunset” the UHF discount on January 1, 2008.

Sec. 13. Digital Translators.

Section 336(f)(4) of the Act authorizes television translators to operate in digital format on the current channels. The FCC, however, has promulgated no rules to implement this law. This section would require the Commission to initiate a rulemaking within 60

days after the enactment of the bill, to establish rules and standards for the operation of digital translators and digital on-channel repeaters.

Broadcasters often provide service to rural or remote areas through the use television translators and on-channel repeaters. In many rural areas, these sources offer the only viable option for providing over-the-air television service. This section is intended to expedite the authorization and operation of digital translators and on-channel repeaters. It would ensure that populations served by analog broadcast operations will continue to receive service through digital broadcast operations. Nothing in this provision is intended to alter the primary status of full service television stations as they relate to digital translators. In conducting this proceeding, the FCC should ensure that digital translators do not create addition interference beyond levels currently authorized by the FCC for digital transmission, nor conflict with the channel assignments of full service analog and digital television stations.

The failure of specified digital translator rules is preventing populations served by translators from taking part in the nation's transition to digital broadcast and denying them access to broadcasters' digital services, including educational programming, public safety announcements, and local public affairs programming. Notably, public television licenses often operate with the assistance of a translator. There are over 700 public television station translators nationwide. The Committee recognizes the importance of ensuring that all areas of the United States enjoy the benefits of digital television. Also, in authorizing digital on-channel repeaters, the FCC should ensure that such authorizations remain consistent with FCC interference rules and policies.

ROLLCALL VOTES IN COMMITTEE

In accordance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following description of the record votes during its consideration of S. 1264:

Senator Lautenberg offered an amendment to phase out the attribution discount permitted for UHF television stations. By rollcall vote of 13 yeas and 10 nays as follows, the amendment was adopted:

YEAS—13	NAYS—10
Mr. Lott	Mr. Stevens
Mrs. Hutchison	Mr. Burns
Ms. Snowe ¹	Mr. Brownback ¹
Mr. Hollings	Mr. Smith
Mr. Inouye ¹	Mr. Fitzgerald
Mr. Rockefeller ¹	Mr. Ensign ¹
Mr. Kerry ¹	Mr. Allen ¹
Mr. Dorgan ¹	Mr. Sununu
Mr. Wyden ¹	Mr. Breaux
Mrs. Boxer ¹	Mr. McCain
Mr. Nelson ¹	
Ms. Cantwell ¹	
Mr. Lautenberg	

¹By proxy

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

SEC. 4. [47 U.S.C. 154] PROVISIONS RELATING TO THE COMMISSION.

(a) The Federal Communications Commission (in this Act referred to as the "Commission") shall be composed of five Commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom the President shall designate as chairman.

(b)(1) Each member of the Commission shall be a citizen of the United States.

(2)(A) No member of the Commission or person employed by the Commission shall—

(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

(D) the perceptions held by the public regarding the business activities of such company or other entity.

(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

(5) The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.

(c) Commissioners shall be appointed for terms of five years and until their successors are appointed and have been confirmed and taken the oath of office, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office; except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds. No vacancy in the Commission shall impair the right of the remaining commissioners to exercise all the powers of the Commission.

(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.

(e) The principal office of the Commission shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States.

(f)(1) The Commission shall have authority, subject to the provisions of the civil-service laws and the Classification Act of 1949, as amended, to appoint such officers, engineers, accountants, attorneys, inspectors, examiners, and other employees as are necessary in the exercise of its functions.

(2) Without regard to the civil-service laws, but subject to the Classification Act of 1949, each commissioner may appoint three professional assistants and a secretary, each of whom shall perform such duties as such commissioner shall direct. In addition, the chairman of the Commission may appoint, without regard to the civil-service laws, but subject to the Classification Act of 1949, an

administrative assistant who shall perform such duties as the chairman shall direct.

(3) The Commission shall fix a reasonable rate of extra compensation for overtime services of engineers in charge and radio engineers of the Field Engineering and Monitoring Bureau of the Federal Communications Commission, who may be required to remain on duty between the hours of 5 o'clock postmeridian and 8 o'clock antemeridian or on Sundays or holidays to perform services in connection with the inspection of ship radio equipment and apparatus for the purposes of part II of title III of this Act or the Great Lakes Agreement, on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from 5 o'clock postmeridian to 8 o'clock antemeridian) and two additional days' pay for Sunday or holiday duty. The said extra compensation for overtime services shall be paid by the master, owner, or agent of such vessel to the local United States collector of customs or his representative, who shall deposit such collection into the Treasury of the United States to an appropriately designated receipt account: *Provided*, That the amounts of such collections received by the said collector of customs or his representatives shall be covered into the Treasury as miscellaneous receipts; and the payments of such extra compensation to the several employees entitled thereto shall be made from the annual appropriations for salaries and expenses of the Commission: *Provided further*, That to the extent that the annual appropriations which are hereby authorized to be made from the general fund of the Treasury are insufficient, there are hereby authorized to be appropriated from the general fund of the Treasury such additional amounts as may be necessary to the extent that the amounts of such receipts are in excess of the amounts appropriated: *Provided further*, That such extra compensation shall be paid if such field employees have been ordered to report for duty and have so reported whether the actual inspection of the radio equipment or apparatus takes place or not: *And provided further*, That in those ports where customary working hours are other than those hereinabove mentioned, the engineers in charge are vested with authority to regulate the hours of such employees so as to agree with prevailing working hours in said ports where inspections are to be made, but nothing contained in this proviso shall be construed in any manner to alter the length of a working day for the engineers in charge and radio engineers or the overtime pay herein fixed: and *Provided further*, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph.

(4)(A) The Commission, for purposes of preparing or administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class of license for which the examination is being prepared or administered. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

(B)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

(II) accept and employ the voluntary and uncompensated services of such individual.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

(I) the detection of improper amateur radio transmissions;

(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

(C)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

(I) recruit and train any citizens band radio operator; and

(II) accept and employ the voluntary and uncompensated services of such operator.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

(I) the detection of improper citizens band radio transmissions;

(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

(D) The Commission shall have the authority to endorse certification of individuals to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services (as defined by the Commission by rule) if such certification programs are conducted by organizations or committees which are representative of the users in those services and which consist of individuals who are not officers or employees of the Federal Government.

(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

(G) The Commission, in accepting and employing services of individuals under subparagraphs (A) and (B), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.

(I) With respect to the acceptance of voluntary uncompensated services for the preparation, processing, or administration of examinations for amateur station operator licenses, pursuant to subparagraph (A) of this paragraph, individuals, or organizations which provide or coordinate such authorized volunteer services may recover from examinees reimbursement for out-of-pocket costs.

(5)(A) The Commission, for purposes of preparing and administering any examination for a commercial radio operator license or endorsement, may accept and employ the services of persons that the Commission determines to be qualified. Any person so employed may not receive compensation for such services, but may recover from examinees such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person.

(B) The Commission may prescribe regulations to select, oversee, sanction, and dismiss any person authorized under this paragraph to be employed by the Commission.

(C) Any person who provides services under this paragraph or who provides goods in connection with such services shall not, by reason of having provided such service or goods, be considered a Federal or special government employee.

(g)(1) The Commission may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for office supplies, lawbooks, periodicals, and books of reference, for printing and binding, for land for use as sites for radio monitoring stations and related facilities, including living quarters where necessary in remote areas, for the construction of such stations and facilities, and for the improvement, furnishing, equipping, and repairing of such stations and facilities and

of laboratories and other related facilities (including construction of minor subsidiary buildings and structures not exceeding \$25,000 in any one instance) used in connection with technical research activities), as may be necessary for the execution of the functions vested in the Commission and as may be appropriated for by the Congress in accordance with the authorizations of appropriations established in section 6. All expenditures of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees, under their orders, in making any investigation or upon any official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission or by such other members or officer thereof as may be designated by the Commission for that purpose.

[(2)(A) If—

[(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

[(ii) such attendance and participation are in furtherance of the functions of the Commission; and

[(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting;

then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

[(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

[(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

[(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1994.

[(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.]

(2) Notwithstanding section 1353 of title 31, United States Code, section 4111 of title 5, United States Code, or any other provision of law in pari materia, no Commissioner or employee of the Commission may accept, nor may the Commission accept, payment or reimbursement from the nongovernmental sponsor (or any affiliated organization) of any convention, conference, or meeting for expenses for travel, subsistence, or related expenses incurred by a commissioner or employee of the Commission for the purpose of enabling that commissioner or employee to attend and participate in any such convention, conference, or meeting. The Commission may establish a de minimus level of payment or value to which the preceding sentence does not apply.

(3)(A) Notwithstanding any other provision of law, in furtherance of its functions the Commission is authorized to accept, hold, administer, and use unconditional gifts, donations, and bequests of

real, personal, and other property (including voluntary and uncompensated services, as authorized by section 3109 of title 5, United States Code).

(B) The Commission, for purposes of providing radio club and military-recreational call signs, may utilize the voluntary, uncompensated, and unreimbursed services of amateur radio organizations authorized by the Commission that have tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986.

(C) For the purpose of Federal law on income taxes, estate taxes, and gift taxes, property or services accepted under the authority of subparagraph (A) shall be deemed to be a gift, bequest, or devise to the United States.

(D) The Commission shall promulgate regulations to carry out the provisions of this paragraph. Such regulations shall include provisions to preclude the acceptance of any gift, bequest, or donation that would create a conflict of interest or the appearance of a conflict of interest.

(h) Three members of the Commission shall constitute a quorum thereof. The Commission shall have an official seal which shall be judicially noticed.

(i) The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.

(j) The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest. Any party may appear before the Commission and be heard in person or by attorney. Every vote and official act the Commission shall be entered of record, and its proceedings shall be public upon the request of any party interested. The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense.

(k) The Commission shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain—

- (1) such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of interstate and foreign wire and radio communication and radio transmission of energy;

- (2) such information and data concerning the functioning of the Commission as will be of value to Congress in appraising the amount and character of the work and accomplishments of the Commission and the adequacy of its staff and equipment;

- (3) an itemized statement of all funds expended during the preceding year by the Commission, of the sources of such funds, and of the authority in this Act or elsewhere under which such expenditures were made; and

- (4) specific recommendations to Congress as to additional legislation which the Commission deems necessary or desirable, including all legislative proposals submitted for approval to the Director of the Office of Management and Budget.

(l) All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party

who may have complained, and to any common carrier or licensee that may have been complained of.

(m) The Commission shall provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

(n) Rates of compensation of persons appointed under this section shall be subject to the reduction applicable to officers and employees of the Federal Government generally.

(o) For the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property, the Commission shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems.

(p) *APPLICATION WITH BANKRUPTCY LAWS.*—

(1) *IN GENERAL.*—*The bankruptcy laws shall not be applied—*

(A) *to avoid, discharge, stay, or set-off any pre-petition debt obligation to the United States arising from an auction under this Act,*

(B) *to stay the payment obligations of the debtor to the United States if such payments were a condition of the grant or retention of a license under this Act, or*

(C) *to prevent the automatic cancellation of licenses for failure to comply with any monetary or non-monetary condition for holding any license issued by the Commission, including automatic cancellation of licenses for failure to pay a monetary obligation of the debtor to the United States when due under an installment payment plan arising from an auction under this Act,*

except that, upon cancellation of a license issued by the Commission, the United States shall have an allowed unsecured claim for any outstanding debt to the United States with respect to such canceled licenses, and that unsecured debt may be recovered by the United States under its rights as a creditor under title 11, United States Code, or other applicable law.

(2) *DEBTOR TO HAVE NO INTEREST IN PROCEEDS OF AUCTION.*—*A debtor in a proceeding under the bankruptcy laws shall have no right or interest in any portion of the proceeds from an auction of any license reclaimed by the Commission for failure to pay a monetary obligation of the debtor to the United States in connection with the grant or retention of a license under this Act.*

(3) *SECURITY INTERESTS.*—*Notwithstanding any other provision of law, the Commission may—*

(A) *establish rules and procedures governing security interests in licenses, or the proceeds of the sale of licenses, issued by the Commission; and*

(B) *establish an office within the Office of Secretary for the recording and perfection of such security interests without regard to otherwise applicable State law.*

(4) *BANKRUPTCY LAWS DEFINED.*—*In this subsection, the term “bankruptcy laws” means title 11, United States Code, or any*

otherwise applicable Federal or State law regarding insolvencies or receiverships, including any Federal law enacted or amended after the date of enactment of the FCC Reauthorization Act of 2003 not expressly in derogation of this subsection.

* * * * *

SEC. 6. [47 U.S.C. 156] AUTHORIZATION OF APPROPRIATIONS.

[(a) There are authorized to be appropriated for the administration of this Act by the Commission \$109,831,000 for fiscal year 1990 and \$119,831,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1990 and 1991.

[(b) In addition to the amounts authorized to be appropriated under this section, not more than 4 percent of the amount of any fees or other charges payable to the United States which are collected by the Commission during fiscal year 1990 are authorized to be made available to the Commission until expended to defray the fully distributed costs of such fees collection.

[(c) Of the amounts appropriated pursuant to subsection (a) for fiscal year 1991, such sums as may be necessary not to exceed \$2,000,000 shall be expended for upgrading and modernizing equipment at the Commission's electronic emissions test laboratory located in Laurel, Maryland.]

(a) *IN GENERAL.*—*There are authorized to be appropriated for the administration of this Act by the Commission \$281,289,000 for fiscal year 2004, \$299,500,000 for fiscal year 2005, \$318,982,000 for fiscal year 2006, and \$334,931,000 for each of fiscal years 2007 and 2008, to carry out this Act including amounts necessary for unreimbursed travel, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of such years.*

(b) *STAFFING LEVELS.*—*The Commission may hire and maintain an adequate number of full time equivalent staff, to the extent of the amounts authorized by subsection (a), necessary to carry out the Commission's powers and duties under this Act.*

[(d)] (c) *REGULATORY FEES OFFSET.*—*Of the sum appropriated in any fiscal year under this section, a portion, in an amount determined under section 9(b), shall be derived from fees authorized by section 9.*

* * * * *

SEC. 8. [47 U.S.C. 158] APPLICATION FEES.

(a) The Commission shall assess and collect application fees at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section.

(b)(1) The Schedule of Application Fees established under this section shall be reviewed by the Commission every two years after October 1, 1991, and adjusted by the Commission to reflect changes

in the Consumer Price Index. Increases or decreases in application fees shall apply to all categories of application fees, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section, amounts to at least \$5.00 in the case of fees under \$100.00, or 5 percent in the case of fees of \$100.00 or more. All fees which require adjustment will be rounded upward to the next \$5.00 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

(2) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.

(c)(1) The Commission shall prescribe by regulation an additional application fee which shall be assessed as a penalty for late payment of application fees required by subsection (a) of this section. Such penalty shall be 25 percent of the amount of the application fee which was not paid in a timely manner.

(2) The Commission may dismiss any application or other filing for failure to pay in a timely manner any application fee or penalty under this section.

(d)(1) The application fees established under this section shall not be applicable (A) to governmental entities and nonprofit entities licensed in the following radio services: Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, and Special Emergency Radio, or (B) to governmental entities licensed in other services.

(2) The Commission may waive or defer payment of an charge in any specific instance for good cause shown, where such action would promote the public interest.

[(e) Moneys received from application fees established under this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.]

(e) *DEPOSIT OF COLLECTIONS.*—*Moneys received from fees established under this section shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.*

(f) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(g) Until modified pursuant to subsection (b) of this section, the Schedule of Application Fees which the Federal Communications Commission shall prescribe pursuant to subsection (a) of this section shall be as follows:

SCHEDULE OF APPLICATION FEES

Service	Fee amount
PRIVATE RADIO SERVICES	
1. Marine Coast Stations	
a. New License (per station)	\$70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions) ...	100.00
e. Assignments (per station)	70.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00

2. Ship Stations	
a. New License (per application)	35.00
b. Modification of License (per application)	35.00
c. Renewal of License (per application)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
3. Operational Fixed Microwave Stations	
a. New License (per station)	155.00
b. Modification of License (per station)	155.00
c. Renewal of License (per station)	155.00
d. Special Temporary Authority (Initial, Modifications, Extensions) ...	35.00
e. Assignments (per station)	155.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
4. Aviation (Ground Stations)	
a. New License (per station)	70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions) ...	100.00
e. Assignments (per station)	70.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
5. Aircraft Stations	
a. New License (per application)	35.00
b. Modification of License (per application)	35.00
c. Renewal of License (per application)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
6. Land Mobile Radio Stations (including Special Emergency and Public Safety Stations)	
a. New License (per call sign)	35.00
b. Modification of License (per call sign)	35.00
c. Renewal of License (per call sign)	35.00
d. Special Temporary Authority (Initial, Modifications, Extensions) ...	35.00
e. Assignments (per station)	35.00
f. Transfers of Control (per call sign)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
h. Reinstatement (per call sign)	35.00
i. Specialized Mobile Radio Systems-Base Stations	
(i) New License (per call sign)	35.00
(ii) Modification of License (per call sign)	35.00
(iii) Renewal of License (per call sign)	35.00
(iv) Waiting List (annual application fee per application)	35.00
(v) Special Temporary Authority (Initial, Modifications, Extensions)	35.00
(vi) Assignments (per call sign)	35.00
(vii) Transfers of Control (per call sign)	35.00
(viii) Request for Waiver	
(1) Routine (per request)	105.00
(2) Non-Routine (per rule section/per station)	105.00
(ix) Reinstatements (per call sign)	35.00
j. Private Carrier Licenses	
(i) New License (per call sign)	35.00
(ii) Modification of License (per call sign)	35.00
(iii) Renewal of License (per call sign)	35.00
(iv) Special Temporary Authority (Initial, Modifications, Extensions)	35.00
(v) Assignments (per call sign)	35.00
(vi) Transfers of Control (per call sign)	35.00
(vii) Request for Waiver	
(1) Routine (per request)	105.00

(2) Non-Routine (per rule section/per station)	105.00
(viii) Reinstatements (per call sign)	35.00
7. General Mobile Radio Service	
a. New License (per call sign)	35.00
b. Modifications of License (per call sign)	35.00
c. Renewal of License (per call sign)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
e. Special Temporary Authority (Initial, Modifications, Extensions) ...	35.00
f. Transfer of control (per call sign)	35.00
8. Restricted Radiotelephone Operator Permit	35.00
9. Request for Duplicate Station License (all services)	35.00
10. Hearing (Comparative, New, and Modifications)	6,760.00

EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO

1. Certification	
a. Receivers (except TV and FM receivers)	285.00
b. All Other Devices	735.00
c. Modifications and Class II Permissive Changes	35.00
d. Request for Confidentiality	105.00
2. Type Acceptance	
a. All Devices	370.00
b. Modifications and Class II Permissive Changes	35.00
c. Request for Confidentiality	105.00
3. Type Approval (all devices)	
a. With Testing (including Major Modifications)	1,465.00
b. Without Testing (including Minor Modifications)	170.00
c. Request for Confidentiality	105.00
4. Notifications	115.00
5. Advance Approval for Subscription TV System	2,255.00
a. Request for Confidentiality	105.00
6. Assignment of Grantee Code for Equipment Identification	35.00
7. Experimental Radio Service	
a. New Construction Permit and Station Authorization (per applica- tion)	35.00
b. Modification to Existing Construction Permit and Station Author- ization (per application)	35.00
c. Renewal of Station Authorization (per application)	35.00
d. Assignment or Transfer of Control (per application)	35.00
e. Special Temporary Authority (per application)	35.00
f. Additional Application Fee for Applications Containing Requests to Withhold Information From Public Inspection (per application)	35.00

MASS MEDIA SERVICES

1. Commercial TV Stations	
a. New or Major Change Construction Permits	2,535.00
b. Minor Change	565.00
c. Hearing (Major/Minor Change, Comparative New, or Comparative Renewal)	6,760.00
d. License	170.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315)	565.00
(ii) Short Form (Form 316)	80.00
f. Renewal	100.00
g. Call Sign (New or Modification)	55.00
h. Special Temporary Authority (other than to remain silent or ex- tend an existing STA to remain silent)	100.00
i. Extension of Time to Construct or Replacement of CP	200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations	55.00
k. Petition for Rulemaking for New Community of License	1,565.00
l. Ownership Report (per report)	35.00
2. Commercial Radio Stations	
a. New and Major Change Construction Permit	
(i) AM Station	2,255.00
(ii) FM Station	2,030.00
b. Minor Change	
(i) AM Station	565.00
(ii) FM Station	565.00

c. Hearing (Major/Minor Change, Comparative New, or Comparative Renewal)	6,760.00
d. License	
(i) AM	370.00
(ii) FM	115.00
(iii) AM Directional Antenna	425.00
(iv) FM Directional Antenna	355.00
(v) AM Remote Control	35.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315)	565.00
(ii) Short Form (Form 316)	80.00
f. Renewal	100.00
g. Call Sign (New or Modification)	55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
i. Extension of Time to Construct or Replacement of CP	200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations	55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel	1,565.00
l. Ownership Report (per report)	35.00
3. FM Translators	
a. New or Major Change Construction Permit	425.00
b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
4. TV Translators and LPTV Stations	
a. New or Major Change Construction Permit	425.00
b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
5. Auxiliary Services (Includes Remote Pickup stations, TV Auxiliary Broadcast stations, Aural Broadcast STL and Intercity Relay stations, and Low Power Auxiliary stations)	
a. Major Actions	85.00
b. Renewals	35.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
6. FM/TV Boosters	
a. New and Major Change Construction Permits	425.00
b. License	85.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
7. International Broadcast Station	
a. New Construction Permit and Facilities Change CP	1,705.00
b. License	385.00
c. Assignment or Transfer (per station)	60.00
d. Renewal	95.00
e. Frequency Assignment and Coordination (per frequency hour)	35.00
f. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
8. Cable Television Service	
a. Cable Television Relay Service	
(i) Construction Permit	155.00
(ii) Assignment or Transfer	155.00
(iii) Renewal	155.00
(iv) Modification	155.00
(v) Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
b. Cable Special Relief Petition	790.00
c. 76.12 Registration Statement (per statement)	35.00
d. Aeronautical Frequency Usage Notifications (per notice)	35.00
e. Aeronautical Frequency Usage Waivers (per waiver)	35.00

9. Direct Broadcast Satellite	
a. New or Major Change Construction Permit	
(i) Application for Authorization to Construct a Direct Broadcast Satellite	2,030.00
(ii) Issuance of Construction Permit & Launch Authority	19,710.00
(iii) License to Operate Satellite	565.00
b. Hearing (Comparative New, Major/Minor Modifications, or Comparative Renewal)	6,760.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
COMMON CARRIER SERVICES	
1. All Common Carrier Services	
a. Hearing (Comparative New or Major/Minor Modifications)	6,760.00
b. Development Authority (Same application fee as regular authority in service unless otherwise indicated)	
c. Formal Complaints and Pole Attachment Complaints Filing Fee ...	120.00
d. Proceeding under section 109(b) of the Communications Assistance for Law Enforcement Act	5,000
2. Domestic Public Land Mobile Stations (includes Base, Dispatch, Control & Repeater Stations)	
a. New or Additional Facility (per transmitter)	230.00
b. Major Modifications (per transmitter)	230.00
c. Fill In Transmitters (per transmitter)	230.00
d. Major Amendment to a Pending Application (per transmitter)	230.00
e. Assignment or Transfer	
(i) First Call Sign on Application	230.00
(ii) Each Additional Call Sign	35.00
f. Partial Assignment (per call sign)	230.00
g. Renewal (per call sign)	35.00
h. Minor Modification (per transmitter)	35.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Extension of Time to Construct (per application)	35.00
k. Notice of Completion of Construction (per application)	35.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Subsidiary Communications Service (per request)	100.00
n. Reinstatement (per application)	35.00
o. Combining Call Signs (per call sign)	200.00
p. Standby Transmitter (per transmitter/per location)	200.00
q. 900 MHz Nationwide Paging	
(i) Renewal	
(1) Network Organizer	35.00
(2) Network Operator (per operator/per city)	35.00
r. Air-Ground Individual License (per station)	
(i) Initial License	35.00
(ii) Renewal of License	35.00
(iii) Modification of License	35.00
3. Cellular Systems (per system)	
a. New or Additional Facilities	230.00
b. Major Modification	230.00
c. Minor Modification	60.00
d. Assignment or Transfer (including partial)	230.00
e. License to Cover Construction	
(i) Initial License for Wireline Carrier	595.00
(ii) Subsequent License for Wireline Carrier	60.00
(iii) License for Nonwireline Carrier	60.00
(iv) Fill In License (all carriers)	60.00
f. Renewal	35.00
g. Extension of Time to Complete Construction	35.00
h. Special Temporary Authority (per system)	200.00
i. Combining Cellular Geographic Service Areas (per system)	50.00
4. Rural Radio (includes Central Office, Interoffice, or Relay Facilities)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modification (per transmitter)	105.00
c. Major Amendment to Pending Application (per transmitter)	105.00
d. Minor Modification (per transmitter)	35.00
e. Assignments or Transfers	
(i) First Call Sign on Application	105.00
(ii) Each Additional Call Sign	35.00

(iii) Partial Assignment (per call sign)	105.00
f. Renewal (per call sign)	35.00
g. Extension of Time to Complete Construction (per application)	35.00
h. Notice of Completion of Construction (per application)	35.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Reinstatement (per application)	35.00
k. Combining Call Signs (per call sign)	200.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Standby Transmitter (per transmitter/per location)	200.00
5. Offshore Radio Service (Mobile, Subscriber, and Central Stations; fees would also apply to any expansion of this service into coastal waters other than the Gulf of Mexico)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modifications (per transmitter)	105.00
c. Fill In Transmitters (per transmitter)	105.00
d. Major Amendment to Pending Application (per transmitter)	105.00
e. Minor Modification (per transmitter)	35.00
f. Assignment or Transfer	
(i) Each Additional Call Sign	35.00
(ii) Partial Assignment (per call sign)	105.00
g. Renewal (per call sign)	35.00
h. Extension of Time to Complete Construction (per application)	35.00
i. Reinstatement (per application)	35.00
j. Notice of Completion of Construction (per application)	35.00
k. Special Temporary Authority (per frequency/per location)	200.00
l. Combining Call Signs (per call sign)	200.00
m. Auxiliary Test Station (per transmitter)	200.00
n. Standby Transmitter (per transmitter/ per location)	200.00
6. Point-to-Point Microwave and Local Television Radio Service	
a. Conditional License (per station)	155.00
b. Major Modification of Conditional License or License Authorization (per station)	155.00
c. Certification of Completion of Construction (per station)	155.00
d. Renewal (per licensed station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00
f. Extension of Construction Authorization (per station)	55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
7. Multipoint Distribution Service (including multichannel MDS)	
a. Conditional License (per station)	155.00
b. Major Modification of Conditional License or License Authorization (per station)	155.00
c. Certification of Completion of Construction (per channel)	455.00
d. Renewal (per licensed station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00
f. Extension of Construction Authorization (per station)	110.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
8. Digital Electronic Message Service	
a. Conditional License (per nodal station)	155.00
b. Modification of Conditional License or License Authorization (per nodal station)	155.00
c. Certification of Completion of Construction (per nodal station)	155.00
d. Renewal (per licensed nodal station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00
f. Extension of Construction Authorization (per station)	55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
9. International Fixed Public Radio (Public and Control Stations)	
a. Initial Construction Permit (per station)	510.00
b. Assignment or Transfer (per application)	510.00
c. Renewal (per license)	370.00
d. Modification (per station)	370.00

e. Extension of Construction Authorization (per station)	185.00
f. Special Temporary Authority or Request for Waiver (per request)	185.00
10. Fixed Satellite Transmit/Receive Earth Stations	
a. Initial Application (per station)	1,525.00
b. Modification of License (per station)	105.00
c. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	100.00
d. Developmental Station (per station)	1,000.00
e. Renewal of License (per station)	105.00
f. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
g. Amendment of Application (per station)	105.00
h. Extension of Construction Permit (per station)	105.00
11. Small Transmit/Receive Earth Stations (2 meters or less and oper- ating in the 4/6 GHz frequency band)	
a. Lead Application	3,380.00
b. Routine Application (per station)	35.00
c. Modification of License (per station)	105.00
d. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	35.00
e. Developmental Station (per station)	1,000.00
f. Renewal of License (per station)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
h. Amendment of Application (per station)	105.00
i. Extension of Construction Permit (per station)	105.00
12. Receive Only Earth Stations	
a. Initial Application for Registration	230.00
b. Modification of License or Registration (per station)	105.00
c. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	100.00
d. Renewal of License (per station)	105.00
e. Amendment of Application (per station)	105.00
f. Extension of Construction Permit (per station)	105.00
g. Waivers (per request)	105.00
13. Very Small Aperture Terminal (VSAT) Systems	
a. Initial Application (per system)	5,630.00
b. Modification of License (per system)	105.00
c. Assignment or Transfer of System	1,505.00
d. Developmental Station	1,000.00
e. Renewal of License (per system)	105.00
f. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
g. Amendment of Application (per system)	105.00
h. Extension of Construction Permit (per system)	105.00
14. Mobile Satellite Earth Stations	
a. Initial Application of Blanket Authorization	5,630.00
b. Initial Application for Individual Earth Station	1,350.00
c. Modification of License (per system)	105.00
d. Assignment or Transfer (per system)	1,505.00
e. Developmental Station	1,000.00
f. Renewal of License (per system)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
h. Amendment of Application (per system)	105.00
i. Extension of Construction Permit (per system)	105.00
15. Radio determination Satellite Earth Stations	
a. Initial Application of Blanket Authorization	5,630.00
b. Initial Application for Individual Earth Station	1,350.00
c. Modification of License (per system)	105.00
d. Assignment or Transfer (per system)	1,505.00
e. Developmental Station	1,000.00
f. Renewal of License (per system)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Au- thorization (per request)	105.00
h. Amendment of Application (per system)	105.00

i. Extension of Construction Permit (per system)	105.00
16. Space Stations	
a. Application for Authority to Construct	2,030.00
b. Application for Authority to Launch & Operate	
(i) Initial Application	70,000.00
(ii) Replacement Satellite	70,000.00
c. Assignment or Transfer (per satellite)	5,000.00
d. Modification	5,000.00
e. Special Temporary Authority or Waiver of Prior Construction Au- thorization (per request)	500.00
f. Amendment of Application	1,000.00
g. Extension of Construction Permit/Launch Authorization (per re- quest)	500.00
17. Section 214 Applications	
a. Overseas Cable Construction	9,125.00
b. Cable Landing License	
(i) Common Carrier	1,025.00
(ii) Non-Common Carrier	10,150.00
c. Domestic Cable Construction	610.00
d. All Other 214 Applications	610.00
e. Special Temporary Authority (all services)	610.00
f. Assignments or Transfers (all services)	610.00
18. Recognized Private Operating Status (per application)	610.00
19. Telephone Equipment Registration	155.00
20. Tariff Filings	
a. Filing Fee	490.00
b. Special Permission Filing (per filing)	490.00
21. Accounting and Audits	
a. Field Audit	62,290.00
b. Review of Attest Audit	34,000.00
c. Review of Depreciation Update Study (Single State)	20,685.00
(i) Each Additional State	680.00
d. Interpretation of Accounting Rules (per request)	2,885.00
e. Petition for Waiver (per petition)	4,660.00
22. Low-Earth Orbit Satellite Systems	
a. Application for Authority to Construct (per system of technology identical satellites)	6,000.00
b. Application for Authority to Launch and Operate (per system of technologically identical satellites)	210,000.00
c. Assignment or Transfer (per request)	6,000.00
d. Modification (per request)	15,000.00
e. Special Temporary Authority or Waiver of Prior Construction Au- thorization (per request)	1,500.00
f. Amendment of Application (per request)	3,000.00
g. Extension of Construction Permit/Launch Authorization (per re- quest)	1,500.00

MISCELLANEOUS APPLICATION FEES

1. International Telecommunications Settlements Administrative Fee for Collections (per line item)	2.00
2. Radio Operator Examinations	
a. Commercial Radio Operator Examination	35.00
b. Renewal of Commercial Radio Operator License, Permit, or Cer- tificate	35.00
c. Duplicate or Replacement Commercial Radio Operator License, Permit, or Certificate	35.00
3. Ship Inspections	
a. Inspection of Oceangoing Vessels Under Title III, Part II of the Communications Act (per inspection)	620.00
b. Inspection of Passenger Vessels Under Title III, Part III of the Communications Act (per inspection)	320.00
c. Inspection of Vessels Under the Great Lakes Agreement (per in- spection)	75.00
d. Inspection of Foreign Vessels Under the Safety of Life at Sea (SOLAS) Convention (per inspection)	540.00
e. Temporary Waiver for Compulsorily Equipped Vessel	60.00

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SEC. 11. [47 U.S.C. 161] REGULATORY REFORM.

(a) **BIENNIAL REVIEW OF REGULATIONS.**—In every even-numbered year (beginning with 1998), the Commission—

(1) shall review all regulations issued under this Act in effect at the time of the review that apply to the operations or activities of any provider of telecommunications service; and

(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.

(b) **EFFECT OF DETERMINATION.**—The Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest.

(c) **OWNERSHIP RULES.**—*Subsections (a) and (b) do not apply to ownership rules reviewable under section 202(h) of the Telecommunications Act of 1996.*

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SEC. 336. [47 U.S.C. 336] BROADCAST SPECTRUM FLEXIBILITY.

(a) **COMMISSION ACTION.**—If the Commission determines to issue additional licenses for advanced television services, the Commission—

(1) should limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both); and

(2) shall adopt regulations that allow the holders of such licenses to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

(b) **CONTENTS OF REGULATIONS.**—In prescribing the regulations required by subsection (a), the Commission shall—

(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person, except that no ancillary or supplementary service shall have any rights to carriage under section 614 or 615 or be deemed a multichannel video programming distributor for purposes of section 628;

(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt

regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

(c) **RECOVERY OF LICENSE.**—If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that either the additional license or the original license held by the licensee be surrendered to the Commission for reallocation or reassignment (or both) pursuant to Commission regulation.

(d) **PUBLIC INTEREST REQUIREMENT.**—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

(e) **FEEES.**—

(1) **SERVICES TO WHICH FEES APPLY.**—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

(A) for which the payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

(2) **COLLECTION OF FEES.**—The program required by paragraph (1) shall—

(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this Act and the Commission's regulations thereunder; and

(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

(3) TREATMENT OF REVENUES.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

(4) REPORT.—Within 5 years after the date of enactment of the Telecommunications Act of 1996, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

(f) PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.—

(1) CREATION OF CLASS A LICENSES.—

(A) RULEMAKING REQUIRED.—Within 120 days after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall prescribe regulations to establish a class A television license to be available to licensees of qualifying low-power television stations. Such regulations shall provide that—

(i) the license shall be subject to the same license terms and renewal standards as the licenses for full-power television stations except as provided in this subsection; and

(ii) each such class A licensee shall be accorded primary status as a television broadcaster as long as the station continues to meet the requirements for a qualifying low-power station in paragraph (2).

(B) NOTICE TO AND CERTIFICATION BY LICENSEES.—Within 30 days after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall send a notice to the licensees of all low-power television licenses that describes the requirements for class A designation. Within 60 days after such date of enactment, licensees intending to seek class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this subsection. Absent a material deficiency, the Commission shall grant certification of eligibility to apply for class A status.

(C) APPLICATION FOR AND AWARD OF LICENSES.—Consistent with the requirements set forth in paragraph (2)(A)

of this subsection, a licensee may submit an application for class A designation under this paragraph within 30 days after final regulations are adopted under subparagraph (A) of this paragraph. Except as provided in paragraphs (6) and (7), the Commission shall, within 30 days after receipt of an application of a licensee of a qualifying low-power television station that is acceptable for filing, award such a class A television station license to such licensee.

(D) RESOLUTION OF TECHNICAL PROBLEMS.—The Commission shall act to preserve the service areas of low-power television licensees pending the final resolution of a class A application. If, after granting certification of eligibility for a class A license, technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary—

(i) to ensure replication of the full-power digital television applicant's service area, as provided for in sections 73.622 and 73.623 of the Commission's regulations (47 CFR 73.622, 73.623); and

(ii) to permit maximization of a full-power digital television applicant's service area consistent with such sections 73.622 and 73.623,

if such applicant has filed an application for maximization or a notice of its intent to seek such maximization by December 31, 1999, and filed a bona fide application for maximization by May 1, 2000. Any such applicant shall comply with all applicable Commission rules regarding the construction of digital television facilities.

(E) CHANGE APPLICATIONS.—If a station that is awarded a construction permit to maximize or significantly enhance its digital television service area, later files a change application to reduce its digital television service area, the protected contour of that station shall be reduced in accordance with such change modification.

(2) QUALIFYING LOW-POWER TELEVISION STATIONS.—For purposes of this subsection, a station is a qualifying low-power television station if—

(A)(i) during the 90 days preceding the date of the enactment of the Community Broadcasters Protection Act of 1999—

(I) such station broadcast a minimum of 18 hours per day;

(II) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group; and

(III) such station was in compliance with the Commission's requirements applicable to low-power television stations; and

(ii) from and after the date of its application for a class A license, the station is in compliance with the Commission's operating rules for full-power television stations; or

(B) the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

(3) COMMON OWNERSHIP.—No low-power television station authorized as of the date of the enactment of the Community Broadcasters Protection Act of 1999 shall be disqualified for a class A license based on common ownership with any other medium of mass communication.

(4) ISSUANCE OF LICENSES FOR ADVANCED TELEVISION SERVICES TO TELEVISION TRANSLATOR STATIONS AND QUALIFYING LOW-POWER TELEVISION STATIONS.—The Commission is not required to issue any additional license for advanced television services to the licensee of a class A television station under this subsection, or to any licensee of any television translator station, but shall accept a license application for such services proposing facilities that will not cause interference to the service area of any other broadcast facility applied for, protected, permitted, or authorized on the date of filing of the advanced television application. Such new license or the original license of the applicant shall be forfeited after the end of the digital television service transition period, as determined by the Commission. A licensee of a low-power television station or television translator station may, at the option of licensee, elect to convert to the provision of advanced television services on its analog channel, but shall not be required to convert to digital operation until the end of such transition period. *Within 60 days after the date of enactment of the FCC Reauthorization Act of 2003, the Commission shall initiate a rulemaking implementing this section to authorize the operation of digital television translators and digital on-channel repeaters.*

(5) NO PREEMPTION OF SECTION 337.—Nothing in this subsection preempts or otherwise affects section 337 of this Act.

(6) INTERIM QUALIFICATION.—

(A) STATIONS OPERATING WITHIN CERTAIN BANDWIDTH.—The Commission may not grant a class A license to a low-power television station for operation between 698 and 806 megahertz, but the Commission shall provide to low-power television stations assigned to and temporarily operating in that bandwidth the opportunity to meet the qualification requirements for a class A license. If such a qualified applicant for a class A license is assigned a channel within the core spectrum (as such term is defined in MM Docket No. 87–286, February 17, 1998), the Commission shall issue a class A license simultaneously with the assignment of such channel.

(B) CERTAIN CHANNELS OFF-LIMITS.—The Commission may not grant under this subsection a class A license to a low-power television station operating on a channel within the core spectrum that includes any of the 175 additional channels referenced in paragraph 45 of its February

23, 1998, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (MM Docket No. 87–268). Within 18 months after the date of the enactment of the Community Broadcasters Protection Act of 1999, the Commission shall identify by channel, location, and applicable technical parameters those 175 channels.

(7) NO INTERFERENCE REQUIREMENT.—The Commission may not grant a class A license, nor approve a modification of a class A license, unless the applicant or licensee shows that the class A station for which the license or modification is sought will not cause—

(A) interference within—

(i) the predicted Grade B contour (as of the date of the enactment of the Community Broadcasters Protection Act of 1999, or November 1, 1999, whichever is later, or as proposed in a change application filed on or before such date) of any television station transmitting in analog format; or

(ii)(I) the digital television service areas provided in the DTV Table of Allotments; (II) the areas protected in the Commission's digital television regulations (47 CFR 73.622(e) and (f)); (III) the digital television service areas of stations subsequently granted by the Commission prior to the filing of a class A application; and (IV) stations seeking to maximize power under the Commission's rules, if such station has complied with the notification requirements in paragraph (1)(D);

(B) interference within the protected contour of any low-power television station or low-power television translator station that—

(i) was licensed prior to the date on which the application for a class A license, or for the modification of such a license, was filed;

(ii) was authorized by construction permit prior to such date; or

(iii) had a pending application that was submitted prior to such date; or

(C) interference within the protected contour of 80 miles from the geographic center of the areas listed in section 22.625(b)(1) or 90.303 of the Commission's regulations (47 CFR 22.625(b)(1) and 90.303) for frequencies in—

(i) the 470–512 megahertz band identified in section 22.621 or 90.303 of such regulations; or

(ii) the 482–488 megahertz band in New York.

(8) PRIORITY FOR DISPLACED LOW-POWER STATIONS.—Low-power stations that are displaced by an application filed under this section shall have priority over other low-power stations in the assignment of available channels.

(g) EVALUATION.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.

(h)(1) Within 60 days after receiving a request (made in such form and manner and containing such information as the Commission may require) under this subsection from a low-power television station to which this subsection applies, the Commission shall authorize the licensee or permittee of that station to provide digital data service subject to the requirements of this subsection as a pilot project to demonstrate the feasibility of using low-power television stations to provide high-speed wireless digital data service, including Internet access to unserved areas.

(2) The low-power television stations to which this subsection applies are as follows:

(A) KHLM-LP, Houston, Texas.

(B) WTAM-LP, Tampa, Florida.

(C) WWRJ-LP, Jacksonville, Florida.

(D) WVBG-LP, Albany, New York.

(E) KHHI-LP, Honolulu, Hawaii.

(F) KPHE-LP (K19DD), Phoenix, Arizona.

(G) K34FI, Bozeman, Montana.

(H) K65GZ, Bozeman, Montana.

(I) WXOB-LP, Richmond, Virginia.

(J) WIIW-LP, Nashville, Tennessee.

(K) A station and repeaters to be determined by the Federal Communications Commission for the sole purpose of providing service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough.

(L) WSPY-LP, Plano, Illinois.

(M) W24AJ, Aurora, Illinois.

(3) Notwithstanding any requirement of section 553 of title 5, United States Code, the Commission shall promulgate regulations establishing the procedures, consistent with the requirements of paragraphs (4) and (5), governing the pilot projects for the provision of digital data services by certain low power television licensees within 120 days after the date of enactment of LPTV Digital Data Services Act. The regulations shall set forth—

(A) requirements as to the form, manner, and information required for submitting requests to the Commission to provide digital data service as a pilot project;

(B) procedures for testing interference to digital television receivers caused by any pilot project station or remote transmitter;

(C) procedures for terminating any pilot project station or remote transmitter or both that causes interference to any analog or digital full-power television stations, class A television station, television translators or any other users of the core television band;

(D) specifications for reports to be filed quarterly by each low power television licensee participating in a pilot project;

(E) procedures by which a low power television licensee participating in a pilot project shall notify television broad-

cast stations in the same market upon commencement of digital data services and for ongoing coordination with local broadcasters during the test period; and

(F) procedures for the receipt and review of interference complaints on an expedited basis consistent with paragraph (5)(D).

(4) A low-power television station to which this subsection applies may not provide digital data service unless—

(A) the provision of that service, including any remote return-path transmission in the case of 2-way digital data service, does not cause any interference in violation of the Commission's existing rules, regarding interference caused by low power television stations to full-service analog or digital television stations, class A television stations, or television translator stations; and

(B) the station complies with the Commission's regulations governing safety, environmental, and sound engineering practices, and any other Commission regulation under paragraph (3) governing pilot program operations.

(5)(A) The Commission may limit the provision of digital data service by a low-power television station to which this subsection applies if the Commission finds that—

(i) the provision of 2-way digital data service by that station causes any interference that cannot otherwise be remedied; or

(ii) the provision of 1-way digital data service by that station causes any interference.

(B) The Commission shall grant any such station, upon application (made in such form and manner and containing such information as the Commission may require) by the licensee or permittee of that station, authority to move the station to another location, to modify its facilities to operate on a different channel, or to use booster or auxiliary transmitting locations, if the grant of authority will not cause interference to the allowable or protected service areas of full service digital television stations, National Television Standards Committee assignments, or television translator stations, and provided, however, no such authority shall be granted unless it is consistent with existing Commission regulations relating to the movement, modification, and use of non-class A low power television transmission facilities in order—

(i) to operate within television channels 2 through 51, inclusive; or

(ii) to demonstrate the utility of low-power television stations to provide high-speed 2-way wireless digital data service.

(C) The Commission shall require quarterly reports from each station authorized to provide digital data services under this subsection that include—

(i) information on the station's experience with interference complaints and the resolution thereof;

(ii) information on the station's market success in providing digital data service; and

(iii) such other information as the Commission may require in order to administer this subsection.

(D) The Commission shall resolve any complaints of interference with television reception caused by any station providing digital data service authorized under this subsection within 60 days after the complaint is received by the Commission.

(6) The Commission shall assess and collect from any low-power television station authorized to provide digital data service under this subsection an annual fee or other schedule or method of payment comparable to any fee imposed under the authority of this Act on providers of similar services. Amounts received by the Commission under this paragraph may be retained by the Commission as an offsetting collection to the extent necessary to cover the costs of developing and implementing the pilot program authorized by this subsection, and regulating and supervising the provision of digital data service by low-power television stations under this subsection. Amounts received by the Commission under this paragraph in excess of any amount retained under the preceding sentence shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(7) In this subsection, the term “digital data service” includes—

(A) digitally-based interactive broadcast service; and

(B) wireless Internet access, without regard to—

(i) whether such access is—

(I) provided on a one-way or a two-way basis;

(II) portable or fixed; or

(III) connected to the Internet via a band allocated to Interactive Video and Data Service; and

(ii) the technology employed in delivering such service, including the delivery of such service via multiple transmitters at multiple locations.

(8) Nothing in this subsection limits the authority of the Commission under any other provision of law.

(i) DEFINITIONS.—As used in this section:

(1) ADVANCED TELEVISION SERVICES.—The term “advanced television services” means television services provided using digital or other advanced technology as further defined in the opinion, report, and order of the Commission entitled “Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service”, MM Docket 87–268, adopted September 17, 1992, and successor proceedings.

(2) DESIGNATED FREQUENCIES.—The term “designated frequency” means each of the frequencies designated by the Commission for licenses for advanced television services.

(3) HIGH DEFINITION TELEVISION.—The term “high definition television” refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment of the Telecommunications Act of 1996, as further defined in the proceedings described in paragraph (1) of this subsection.

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SEC. 503. [47 U.S.C. 503] FORFEITURES IN CASES OF REBATES AND OFFSETS.

(a) Any person who shall deliver messages for interstate or foreign transmission to any carrier, or for whom as sender or receiver, any such carrier shall transmit any interstate or foreign wire or radio communication, who shall knowingly by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transmission of such messages as fixed by the schedules of charges provided for in this Act, shall in addition to any other penalty provided by this Act forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action, may be included therein, and the amount recovered shall be three times the total amount of money, or three times the total value of such consideration, so received or accepted, or both, as the case may be.

(b)(1) Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have—

(A) willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument or authorization issued by the Commission;

(B) willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding upon the United States;

(C) violated any provision of section 317(c) or 508(a) of this Act; or

(D) violated any provision of section 1304, 1343, or 1464 of title 18, United States Code;

shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this subsection shall be in addition to any other penalty provided for by this Act; except that this subsection shall not apply to any conduct which is subject to forfeiture under title II, part II or III of title III, or section 506 of this Act.

(2)(A) If the violator is (i) a broadcast station licensee or permittee, (ii) a cable television ~~operator, or~~ *operator or any other multichannel video distributor*, or (iii) an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument or authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed ~~[\$25,000]~~ *\$250,000* for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of ~~[\$250,000]~~ *\$2,500,000* for any single act or failure to act described in paragraph (1) of this subsection.

(B) If the violator is a common carrier subject to the provisions of this Act or an applicant for any common carrier license, permit,

certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this subsection shall not exceed ~~【\$100,000】~~ *\$1,000,000* for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of ~~【\$1,000,000】~~ *\$10,000,000* for any single act or failure to act described in paragraph (1) of this subsection.

(C) In any case not covered in subparagraph (A) or (B), the amount of any forfeiture penalty determined under this subsection shall not exceed ~~【\$10,000】~~ *\$100,000* for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of ~~【\$75,000】~~ *\$750,000* for any single act or failure to act described in paragraph (1) of this subsection.

(D) The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(3)(A) At the discretion of the Commission, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge thereof in accordance with section 554 of title 5, United States Code. Any person against whom a forfeiture penalty is determined under this paragraph may obtain review thereof pursuant to section 402(a).

(B) If any person fails to pay an assessment of a forfeiture penalty determined under subparagraph (A) of this paragraph, after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the forfeiture penalty shall not be subject to review.

(4) Except as provided in paragraph (3) of this subsection, no forfeiture penalty shall be imposed under this subsection against any person unless and until—

(A) the Commission issues a notice of apparent liability, in writing, with respect to such person;

(B) such notice has been received by such person, or until the Commission has sent such notice to the last known address of such person, by registered or certified mail; and

(C) such person is granted an opportunity to show, in writing, within such reasonable period of time as the Commission prescribes by rule or regulation, why no such forfeiture penalty should be imposed.

Such a notice shall (i) identify each specific provision, term, and condition of any Act, rule, regulation, order, treaty, convention, or other agreement, license, permit, certificate, instrument, or authorization which such person apparently violated or with which such person apparently failed to comply; (ii) set forth the nature of the act or omission charged against such person and the facts upon

which such charge is based; and (iii) state the date on which such conduct occurred. Any forfeiture penalty determined under this paragraph shall be recoverable pursuant to section 504(a) of this Act.

(5) No forfeiture liability shall be determined under this subsection against any person, if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, and if such person is not an applicant for a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the notice required by paragraph (3) of this subsection or the notice of apparent liability required by paragraph (4) of this subsection, such person (A) is sent a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission which is nearest to such person's place of residence; and (C) subsequently engages in conduct of the type described in such citation. The provisions of this paragraph shall not apply, however, if the person involved is engaging in activities for which a license, permit, certificate, or other authorization is required, or is a cable television system operator, if the person involved is transmitting on frequencies assigned for use in a service in which individual station operation is authorized by rule pursuant to section 307(e), or in the case of violations of section 303(q), if the person involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by section 303(q) from the Commission or the permittee or licensee who uses that tower. Whenever the requirements of this paragraph are satisfied with respect to a particular person, such person shall not be entitled to receive any additional citation of the violation charged, with respect to any conduct of the type described in the citation sent under this paragraph.

(6) No forfeiture penalty shall be determined or imposed against any person under this subsection if—

(A) such person holds a broadcast station license issued under title III of this Act and if the violation charged occurred—

(i) more than **[1 year]** *2 years* prior to the date of issuance of the required notice or notice of apparent liability; or

(ii) prior to the date of commencement of the current term of such license, whichever is earlier; or

(B) such person does not hold a broadcast station license issued under title III of this Act and if the violation charged occurred more than **[1 year]** *2 years* prior to the date of issuance of the required notice or notice of apparent liability.

For purposes of this paragraph, "date of commencement of the current term of such license" means the date of commencement of the last term of license for which the licensee has been granted a license by the Commission. A separate license term shall not be deemed to have commenced as a result of continuing a license in effect under section 307(c) pending decision on an application for renewal of the license.

(c) *SPECIAL RULES FOR BROADCASTING OBSCENE OR INDECENT MATTER.*—

(1) *MULTIPLE VIOLATIONS.*—If the violation of section 1464 of title 18, United States Code, involves the broadcast of obscene or indecent matter from more than 1 individual during the same program, then the broadcast of such matter from each individual shall be considered a separate violation.

(2) *REVOCATION PROCEEDING TO BE COMMENCED.*—If the Commission has reason to believe that an entity described in subsection (b)(2)(A)(i) of this section has violated section 1464 of title 18, United States Code, then the Commission shall commence a proceeding under section 312(a)(6) to revoke the station license or construction permit of that entity and shall revoke such station license or construction permit unless the Commission determines that such action would not be in the public interest.

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SEC. 510. [47 U.S.C. 510] FORFEITURE OF COMMUNICATIONS DEVICES.

(a) Any electronic, electromagnetic, radio frequency, or similar device, or component thereof, used, sent, carried, manufactured, assembled, possessed, offered for sale, sold, or advertised with willful and knowing intent to violate section 301 or 302, and any equipment used to create malicious interference in violation of section 333, or rules prescribed by the Commission under such sections, may be seized and forfeited to the United States.

(b) Any property subject to forfeiture to the United States under this section may be seized by the Attorney General of the United States upon process issued pursuant to the supplemental rules for certain admiralty and maritime claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made if the seizure is incident to a lawful arrest or search.

(c) All provisions of law relating to—

(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

(2) the disposition of such property or the proceeds from the sale thereof;

(3) the remission or mitigation of such forfeitures; and

(4) the compromise of claims with respect to such forfeitures;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section, except that such seizures and forfeitures shall be limited to the communications device, devices, or components thereof.

(d) Whenever property is forfeited under this section, the Attorney General of the United States may forward it to the Commission or sell any forfeited property which is not harmful to the public. The proceeds from any such sale shall be deposited in the general fund of the Treasury of the United States.

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TELECOMMUNICATIONS ACT OF 1996

SEC. 202. BROADCAST OWNERSHIP.

(a) **NATIONAL RADIO STATION OWNERSHIP RULE CHANGES REQUIRED.**—The Commission shall modify section 73.3555 of its regulations (47 C.F.R. 73.3555) by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity nationally.

(b) **LOCAL RADIO DIVERSITY.**—

(1) **APPLICABLE CAPS.**—The Commission shall revise section 73.3555(a) of its regulations (47 C.F.R. 73.3555) to provide that—

(A) in a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

(B) in a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

(C) in a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

(D) in a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.

(2) **EXCEPTION.**—Notwithstanding any limitation authorized by this subsection, the Commission may permit a person or entity to own, operate, or control, or have a cognizable interest in, radio broadcast stations if the Commission determines that such ownership, operation, control, or interest will result in an increase in the number of radio broadcast stations in operation.

(c) **TELEVISION OWNERSHIP LIMITATIONS.**—

(1) **NATIONAL OWNERSHIP LIMITATIONS.**—The Commission shall modify its rules for multiple ownership set forth in section 73.3555 of its regulations (47 C.F.R. 73.3555)—

(A) by eliminating the restrictions on the number of television stations that a person or entity may directly or indirectly own, operate, or control, or have a cognizable interest in, nationwide; and

(B) by increasing the national audience reach limitation for television stations to 35 percent.

(2) **LOCAL OWNERSHIP LIMITATIONS.**—The Commission shall conduct a rulemaking proceeding to determine whether to retain, modify, or eliminate its limitations on the number of television stations that a person or entity may own, operate, or control, or have a cognizable interest in, within the same television market.

(d) RELAXATION OF ONE-TO-A-MARKET.—With respect to its enforcement of its one-to-a-market ownership rules under section 73.3555 of its regulations, the Commission shall extend its waiver policy to any of the top 50 markets, consistent with the public interest, convenience, and necessity.

(e) DUAL NETWORK CHANGES.—The Commission shall revise section 73.658(g) of its regulations (47 C.F.R. 658(g)) to permit a television broadcast station to affiliate with a person or entity that maintains 2 or more networks of television broadcast stations unless such dual or multiple networks are composed of—

(1) two or more persons or entities that, on the date of enactment of the Telecommunications Act of 1996, are “networks” as defined in section 73.3613(a)(1) of the Commission’s regulations (47 C.F.R. 73.3613(a)(1)); or

(2) any network described in paragraph (1) and an English-language program distribution service that, on such date, provides 4 or more hours of programming per week on a national basis pursuant to network affiliation arrangements with local television broadcast stations in markets reaching more than 75 percent of television homes (as measured by a national ratings service).

(f) CABLE CROSS OWNERSHIP.—

(1) ELIMINATION OF RESTRICTIONS.—The Commission shall revise section 76.501 of its regulations (47 C.F.R. 76.501) to permit a person or entity to own or control a network of broadcast stations and a cable system.

(2) SAFEGUARDS AGAINST DISCRIMINATION.—The Commission shall revise such regulations if necessary to ensure carriage, channel positioning, and nondiscriminatory treatment of non-affiliated broadcast stations by a cable system described in paragraph (1).

(g) LOCAL MARKETING AGREEMENTS.—Nothing in this section shall be construed to prohibit the origination, continuation, or renewal of any television local marketing agreement that is in compliance with the regulations of the Commission.

[(h) FURTHER COMMISSION REVIEW.—The Commission shall review its rules adopted pursuant to this section and all of its ownership rules biennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 and shall] determine whether any of such rules are necessary in the public interest as the result of competition. The Commission shall repeal or modify any regulation it determines to be no longer in the public interest.]

(h) FURTHER COMMISSION REVIEW.—

(1) *IN GENERAL.*—*The Commission shall review its rules adopted pursuant to this section, and all of its ownership rules quadrennially (beginning with 2007), and shall determine whether—*

(A) any rule requires strengthening or broadening;

(B) any rule requires limiting or narrowing;

(C) any rule should be repealed; or

(D) any rule should be retained.

(2) *CHANGE, REPEAL, OR RETAIN.*—*The Commission shall change, repeal, or retain such rules pursuant to its review under paragraph (1) as it determines to be in the public interest.*

(i) ELIMINATION OF STATUTORY RESTRICTION.—Section 613(a) (47 U.S.C. 533(a)) is amended—

- (1) by striking paragraph (1);
- (2) by redesignating paragraph (2) as subsection (a);
- (3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;
- (4) by striking “and” at the end of paragraph (1) (as so redesignated);
- (5) by striking the period at the end of paragraph (2) (as so redesignated) and inserting “; and”; and
- (6) by adding at the end the following new paragraph:

“(3) shall not apply the requirements of this subsection to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l).”.

