''(A) shall be required to construct the digital television broadcast facility within 18 months of the date on which the Federal Communications Commission issues a construction permit therefore, and

''(B) shall be prohibited from obtaining or receiving an extension of time from the Commission beyond the construction deadline established by paragraph (1).

''(2) PROHIBITION OF ANALOG OPERATION USING DIGITAL PAIR.—Any licensee or permittee receiving a paired digital channel pursuant to this section shall be prohibited from giving up its current paired analog assignment and becoming a single-channel broadcaster and operating in analog on such paired digital channel.

''(d) RELIEF RESTRICTED.—Any paired digital allotment and assignment made under this section shall not be available to any other applicant unless such applicant is an eligible licensee or permittee within the meaning of subsection (b).''

REPORTS ON PROVISION OF DIGITAL DATA SERVICE BY LOW-POWER TELEVISION STATIONS

Pub. L. 106–554, §1(a)(4) [div. B, title I, §143(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–238, provided that: ''The Federal Communications Commission shall submit a report to the Congress on June 30, 2001, and June 30, 2002, evaluating the utility of using low-power television stations to provide high-speed digital data service. The reports shall be based on the pilot projects authorized by section 336(h) of the Communications Act of 1934 (47 U.S.C. 336(h)).''

CONGRESSIONAL FINDINGS REGARDING LOW-POWER BROADCASTERS

Pub. L. 106–113, div. B, §1000(a)(9) [title V, §5008(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–594, provided that: ''Congress finds the following:

''(1) Since the creation of low-power television licenses by the Federal Communications Commission, a small number of license holders have operated their stations in a manner beneficial to the public good providing broadcasting to their communities that would not otherwise be available.

''(2) These low-power broadcasters have operated their stations in a manner consistent with the programming objectives and hours of operation of full-power broadcasters providing worthwhile services to their respective communities while under severe license limitations compared to their full-power counterparts.

''(3) License limitations, particularly the temporary nature of the license, have blocked many low-power broadcasters from having access to capital, and have severely hampered their ability to continue to provide quality broadcasting, programming, or improvements.

''(4) The passage of the Telecommunications Act of 1996 [Pub. L. 104–104, see Short Title of 1996 Amendment note set out under section 609 of this title] has added to the uncertainty of the future status of these stations by the lack of specific provisions regarding the permanency of their licenses, or their treatment during the transition to high definition, digital television.

''(5) It is in the public interest to promote diversity in television programming such as that currently provided by low-power television stations to foreign-language communities.''

EXECUTIVE ORDER NO. 13038

Ex. Ord. No. 13038, Mar. 11, 1997, 62 F.R. 12065, as amended by Ex. Ord. No. 13062, §5, Sept. 29, 1997, 62 F.R. 51756; Ex. Ord. No. 13065, Oct. 22, 1997, 62 F.R. 55329; Ex. Ord. No. 13081, Apr. 30, 1998, 63 F.R. 24385; Ex. Ord. No. 13102, Sept. 25, 1998, 63 F.R. 52125, which established the Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters, was revoked by Ex. Ord. No. 13138, §3(b), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 337. Allocation and assignment of new public safety services licenses and commercial licenses

(a) In general

Not later than January 1, 1998, the Commission shall allocate the electromagnetic spectrum between 746 megahertz and 806 megahertz, inclusive, as follows:

(1) 24 megahertz of that spectrum for public safety services according to the terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial use to be assigned by competitive bidding pursuant to section 309(j) of this title.

(b) Assignment

The Commission shall commence assignment of licenses for public safety services created pursuant to subsection (a) of this section no later than September 30, 1998.

(c) Licensing of unused frequencies for public safety services

(1) Use of unused channels for public safety services

Upon application by an entity seeking to provide public safety services, the Commission shall waive any requirement of this chapter or its regulations implementing this chapter (other than its regulations regarding harmful interference) to the extent necessary to permit the use of unassigned frequencies for the provision of public safety services by such entity. An application shall be granted under this subsection if the Commission finds that—

(A) no other spectrum allocated to public safety services is immediately available to satisfy the requested public safety service use;

(B) the requested use is technically feasible without causing harmful interference to other spectrum users entitled to protection from such interference under the Commission's regulations;

(C) the use of the unassigned frequency for the provision of public safety services is consistent with other allocations for the provision of such services in the geographic area for which the application is made;

(D) the unassigned frequency was allocated for its present use not less than 2 years prior to the date on which the application is granted; and

(E) granting such application is consistent with the public interest.

(2) Applicability

Paragraph (1) shall apply to any application to provide public safety services that is pending or filed on or after August 5, 1997.

(d) Conditions on licenses

In establishing service rules with respect to licenses granted pursuant to this section, the Commission—

(1) shall establish interference limits at the boundaries of the spectrum block and service area;

(2) shall establish any additional technical restrictions necessary to protect full-service analog television service and digital television service during a transition to digital television service;

(3) may permit public safety services licensees and commercial licensees—

(A) to aggregate multiple licenses to create larger spectrum blocks and service areas; and

(B) to disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

(4) shall establish rules insuring that public safety services licensees using spectrum reallocated pursuant to subsection (a)(1) of this section shall not be subject to harmful interference from television broadcast licensees.

(e) Removal and relocation of incumbent broadcast licensees

(1) Channels 52 to 69

Any full-power television station licensee that holds a television broadcast license to operate between 698 and 806 megahertz may not operate at that frequency after February 17, 2009.

(2) Incumbent qualifying low-power stations

After making any allocation or assignment under this section, the Commission shall seek to assure, consistent with the Commission's plan for allotments for digital television service, that each qualifying low-power television station is assigned a frequency below 698 megahertz to permit the continued operation of such station.

(f) Definitions

For purposes of this section:

(1) Public safety services

The term ''public safety services'' means services—

(A) the sole or principal purpose of which is to protect the safety of life, health, or property;

(B) that are provided—

(i) by State or local government entities; or

(ii) by nongovernmental organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and

(C) that are not made commercially available to the public by the provider.

(2) Qualifying low-power television stations

A station is a qualifying low-power television station if, during the 90 days preceding August 5, 1997—

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

(B) 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; and

(C) such station was in compliance with the requirements applicable to low-power television stations.

(June 19, 1934, ch. 652, title III, §337, as added Pub. L. 105–33, title III, §3004, Aug. 5, 1997, 111 Stat. 266; amended Pub. L. 106–79, title VIII, §8124(a), Oct. 25, 1999, 113 Stat. 1262; Pub. L. 106–113, div. B, §1000(a)(5) [title II, §213(a)(1), (d)], Nov. 29, 1999, 113 Stat. 1536, 1501A–295, 1501A–297; Pub. L. 109–171, title III, §3002(c)(1), Feb. 8, 2006, 120 Stat. 21.)

AMENDMENTS

2006—Subsec. (e)(1). Pub. L. 109–171, §3002(c)(1)(A), substituted ''Channels 52 to 69'' for ''Channels 60 to 69'' in heading and substituted in text ''full-power television station licensee that'' for ''person who'', ''698 and 806 megahertz'' for ''746 and 806 megahertz'', and ''February 17, 2009'' for ''the date on which the digital television service transition period terminates, as determined by the Commission''.

Subsec. (e)(2). Pub. L. 109–171, §3002(c)(1)(B), substituted ''698 megahertz'' for ''746 megahertz''.

1999—Subsec. (b). Pub. L. 106–113, §1000(a)(5) [title II, §213(a)(1)], substituted ''The Commission shall commence assignment of licenses for public safety services created pursuant to subsection (a) of this section no later than September 30, 1998.'' for ''The Commission shall—

''(1) commence assignment of the licenses for public safety services created pursuant to subsection (a) of this section no later than September 30, 1998; and''.

Subsec. (b)(2). Pub. L. 106–79, which struck out par. (2) reading ''commence competitive bidding for the commercial licenses created pursuant to subsection (a) of this section after January 1, 2001.'', was repealed by Pub. L. 106–113, §1000(a)(5) [title II, §213(d)].

INTERFERENCE PROTECTION

Pub. L. 107–195, §6, June 19, 2002, 116 Stat. 717, provided that:

''(a) INTERFERENCE WAIVERS.—In granting a request by a television broadcast station licensee assigned to any of channels 52–69 to utilize any channel of channels 2–51 that is assigned for digital broadcasting in order to continue analog broadcasting during the transition to digital broadcasting, the Federal Communications Commission may not, either at the time of the grant or thereafter, waive or otherwise reduce—

''(1) the spacing requirements provided for analog broadcasting licensees within channels 2–51 as required by section 73.610 of the Commission's rules (and the table contained therein) (47 CFR 73.610), or

''(2) the interference standards provided for digital broadcasting licensees within channels 2–51 as required by sections 73.622 and 73.623 of such rules (47 CFR 73.622, 73.623),

if such waiver or reduction will result in any degradation in or loss of service, or an increased level of interference, to any television household except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted.

''(b) EXCEPTION FOR PUBLIC SAFETY CHANNEL CLEARING.—The restrictions in subsection (a) shall not apply to a station licensee that is seeking authority (either by waiver or otherwise) to vacate the frequencies that constitute television channel 63, 64, 68, or 69 in order to make such frequencies available for public safety purposes pursuant to the provisions of section 337 of the Communications Act of 1934 (47 U.S.C. 337).''

COMPETITIVE BIDDING PROCESS FOR COMMERCIAL LICENSES FOR ASSIGNED FREQUENCIES

Pub. L. 106–113, div. B, §1000(a)(5) [title II, §213], Nov. 29, 1999, 113 Stat. 1536, 1501A–295, as amended by Pub. L. 107–195, §3(b)(3), June 19, 2002, 116 Stat. 717, provided that:

''(a) REVISED SCHEDULE FOR COMPETITIVE BIDDING OF SPECTRUM.—(1) [Amended subsec. (b) of this section.]

''[(2), (3) Repealed. Pub. L. 107–195, §3(b)(3), June 19, 2002, 116 Stat. 717.]

''(4)(A) To expedite the assignment by competitive bidding of the frequencies identified in section 337(a)(2) of the Communications Act of 1934 (47 U.S.C. 337(a)(2)), the rules governing such frequencies shall be effective immediately upon publication in the Federal Register without regard to sections 553(d), 801(a)(3), 804(2), and 806(a) of title 5, United States Code.

''(B) Chapter 6 of title 5, United States Code, section 3 of the Small Business Act (15 U.S.C. 632), and sections 3507 and 3512 of title 44, United States Code, shall not apply to the rules and competitive bidding procedures governing the frequencies described in subparagraph (A).

''(5) Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for the frequencies described in paragraph (4) may be granted by the Federal Communications Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto.

''(6) Notwithstanding section 309(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)), the Federal Communications Commission may specify a period (which shall be not less than 5 days following issuance of the public notice described in paragraph (5)) for the filing of petitions to deny any application for an instrument of authorization for the frequencies described in paragraph (4).

''(b) REPORTS.—(1) Not later than 30 days after the date of the enactment of this Act [Nov. 29, 1999], the Director of the Office of Management and Budget and the Federal Communications Commission shall each submit to the appropriate congressional committees a report which shall—

''(A) set forth the anticipated schedule (including specific dates) for—

''(i) preparing and conducting the competitive bidding process required by subsection (a); and

''(ii) depositing the receipts of the competitive bidding process;

''(B) set forth each significant milestone in the rulemaking process with respect to the competitive bidding process; and

''(C) include an explanation of the effect of each requirement in subsection (a) on the schedule for the competitive bidding process and any post-bidding activities (including the deposit of receipts) when compared with the schedule for the competitive bidding and any post-bidding activities (including the deposit of receipts) that would otherwise have occurred under section 337(b)(2) of the Communications Act of 1934 (47 U.S.C. 337(b)(2)) if not for the enactment of subsection (a).

''(2) Not later than 60 days after the date of the enactment of this Act [Nov. 29, 1999], the Federal Communications Commission shall submit to the appropriate congressional committees a report which shall set forth for each spectrum auction held by the Commission since January 1, 1998, information on—

''(A) the time required for each stage of preparation for the auction;

''(B) the date of the commencement and of the completion of the auction;

''(C) the time which elapsed between the date of the completion of the auction and the date of the first deposit of receipts from the auction in the Treasury; and

''(D) the amounts, summarized by month, of all subsequent deposits in a Treasury receipt account from the auction.

''(3) Not later than October 31, 2000, the Federal Communications Commission shall submit to the appropriate congressional committees a report which shall—

''(A) describe the course of the competitive bidding process required by subsection (a) through September 30, 2000, including the amount of any receipts from the competitive bidding process deposited in the Treasury as of September 30, 2000; and

''(B) if the course of the competitive bidding process has included any deviations from the schedule set forth under paragraph (1)(A), an explanation for such deviations from the schedule.

''(4) Each report required by this subsection shall be prepared by the agency concerned without influence of any other Federal department or agency.

''(5) In this subsection, the term ''appropriate congressional committees'' means the following:

''(A) The Committees on Appropriations, the Budget, and Commerce, Science, and Transportation of the Senate.

''(B) The Committees on Appropriations, the Budget, and Commerce of the House of Representatives.

''(c) CONSTRUCTION.—Nothing in this section shall be construed to supersede the requirements placed on the Federal Communications Commission by section 337(d)(4) of the Communications Act of 1934 (47 U.S.C. 337(d)(4)).

''(d) REPEAL OF SUPERSEDED PROVISIONS.—Section 8124 of the Department of Defense Appropriations Act, 2000 [Pub. L. 106–79, amending this section and enacting provisions formerly set out under this section] is repealed.''

Pub. L. 106–79, title VIII, § 8124, Oct. 25, 1999, 113 Stat. 1262, related to the establishment of a competitive bidding process for commercial licenses and required reports to Congressional committees, prior to repeal by Pub. L. 106–113, div. B, § 1000(a)(5) [title II, § 213(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A–297.

§ 338. Carriage of local television signals by satellite carriers

(a) Carriage obligations

(1) In general

Each satellite carrier providing, under section 122 of title 17, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) of this title.

(2) Remedies for failure to carry

In addition to the remedies available to television broadcast stations under section 501(f) of title 17, the Commission may use the Commission's authority under this chapter to assure compliance with the obligations of this subsection, but in no instance shall a Commission enforcement proceeding be required as a predicate to the pursuit of a remedy available under such section 501(f).

(3) [1] Low power station carriage optional

No low power television station whose signals are provided under section 119(a)(14) of title 17 shall be entitled to insist on carriage under this section, regardless of whether the satellite carrier provides secondary transmissions of the primary transmissions of other stations in the same local market pursuant to section 122 of such title, nor shall any such carriage be considered in connection with the requirements of subsection (c) of this section.

(3) [1] Effective date

No satellite carrier shall be required to carry local television broadcast stations under paragraph (1) until January 1, 2002.

(4) Carriage of signals of local stations in certain markets

A satellite carrier that offers multichannel video programming distribution service in the

[1] So in original. Two pars. (3) have been enacted.