

eventually global) communication network. The new MSS industry also promises to stimulate significant economic growth both domestically and abroad. The FCC's proposals are intended to facilitate the implementation of competitive MSS operations by easing international technical and regulatory constraints and providing additional spectrum allocations.

3. In addition to seeking comment on specific MSS proposals, the FCC seeks input on other subjects raised in the first *Notice of Inquiry* and relating to the WRC-95 agenda including: space service allocation issues; review of Appendices 30 and 30A; availability of high frequency broadcasting bands; the Final Report of the Voluntary Group of Experts on simplifying the international Radio Regulations; and agendas for future WRCs. The FCC also asks parties to consider the long-range planning aspects of the ITU's new conference cycle including the FCC's conference preparatory methods.

4. Upon review of the comments received in response to the *Second Notice of Inquiry* and a final report from the WRC-95 Industry Advisory Committee, the FCC will issue a *Final Report* in this proceeding containing recommended U.S. proposals for the conference. The FCC will consult with the Department of Commerce's National Telecommunications and Information Administration and the Department of State to develop final U.S. proposals for WRC-95.

Federal Communications Commission.

William F. Caton,

Secretary.

[FR Doc. 95-3830 Filed 2-15-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 1

[GC Docket No. 95-21; FCC 95-52]

Ex Parte Presentations in Commission Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its regulations concerning ex parte presentations in Commission proceedings. The proposed rules would simplify the determination in particular proceedings of whether ex parte presentations are permissible and whether they must be disclosed. The proposed rules would also modify the Commission's "sunshine period prohibition." Additionally, the

proposed rules would modify in certain respects the procedures for reporting oral ex parte presentations and for handling potential violations of the rules. Certain other minor amendments of the rules are proposed. The intended effect of these proposals is to make the rules simpler and easier with which to comply, to enhance the fairness of the Commission's processes, and to facilitate the public's ability to communicate with the Commission.

DATES: Comments must be filed on or before March 16, 1995; reply comments must be filed on or before March 31, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street NW, Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: David S. Senzel, Office of General Counsel (202) 418-1760.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking*, GC Docket No. 95-21, adopted on February 7, 1995, and released February 7, 1995. The full text of the notice of proposed rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW, Washington D.C. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., Suite 140, 2100 M Street NW, Washington, D.C. 20037, telephone (202) 857-3800.

Summary of Further Notice of Proposed Rule Making

1. In this notice, the Commission invites comment on proposals to revise its rules governing ex parte presentations in Commission proceedings. The Commission believes that the current rules continue to be excessively complex, making compliance difficult. Moreover, certain specific problem areas have become apparent.

2. The Commission proposes to revise its system for specifying whether proceedings are "restricted," "permit-but-disclose" or "exempt," which determine how ex parte presentations are treated in that proceeding (with certain exceptions). (An ex parte presentation is a communication to a Commission decisionmaker concerning the outcome or merits of a proceeding which—if written—is not served on all parties and—if oral—is made without notice and the opportunity for all parties to be present.) In restricted proceedings, ex parte presentations are prohibited. In non-restricted

proceedings, ex parte presentations are permitted but must be disclosed on the record of the proceeding. In exempt proceedings, ex parte presentations may be made without limitation. The Commission is proposing a simplified system that would permit people to rely on broad general rules to determine the status of a proceeding.

3. Under the proposed system, all proceedings not restricted or exempt would be subject to permit-but-disclose rules. The rules would generally classify as restricted only those proceedings required to be so classified by the Administrative Procedure Act (APA). This would include proceedings designated for hearing. Consistent with the APA, proceedings would also be restricted with respect to any person with knowledge that a designation order was in preparation. Additionally, proceedings involving mutually exclusive applications not subject to auction or lottery would be restricted. The Commission or a Bureau or Office after consultation with OGC could also classify individual proceedings as restricted on a case-by-case basis.

4. A few matters would continue to be expressly classified as exempt. These would include notice of inquiry proceedings and proceedings involving complaints which are not served on the target of the complaint.

5. All other proceedings, including informal adjudications (such as an application, waiver request, other filings seeking affirmative relief) and informal rulemakings, would be subject to permit-but-disclose rules when ex parte presentations are made. For the purposes of these ex parte rules, "parties" would be defined as those making filings which initiate adjudicatory-type proceedings and those who make written submissions regarding the filing party which are served on the filer. Parties also include other persons formally given party status, such as the subject of an order to show cause proceeding.

6. In addition, the proposed rules deal specifically with complaints. They provide that generally in complaint proceedings where the complaint is served on the target of the complaint, both the complainant and the target are parties. In formal section 208 proceedings, both the complainant and the carrier would be parties. Comment is requested on the treatment of informal section 208 complaints.

7. Under this proposal, a sole applicant or other uncontested filer could freely make presentations to the Commission about its filing. As long as no other party appeared, these presentations would not be "ex parte"

presentations, as defined in the rules, and would therefore not be subject to permit-but-disclose requirements. Once another party appeared, both the applicant or filer and the other party would have to comply with the permit-but-disclose rules, because their presentations would be "ex parte."

8. In rulemaking proceedings, the public would, in effect, be treated as parties. Thus, the rules would expressly provide that permit-but-disclose requirements would be triggered by the filing of a petition for rulemaking, or the issuance of a notice of proposed rulemaking (or a rulemaking order done without notice and comment) and would apply to all persons.

9. The Commission also solicits comments as to whether the sunshine period prohibition should be modified. Under the current rules, once a proceeding has been placed on a sunshine notice, no presentations, whether ex parte or not, are permitted until the Commission has released the full text of the order in the proceeding noticed in the sunshine notice, deleted the item from the sunshine agenda, or returned the item for further staff consideration. The prohibition is intended to give the Commission "a period of repose" in which to make decisions.

10. The Commission asks for comments on whether there should be a "sunshine period" once items are adopted on circulation. The Commission also proposes to exempt from the prohibition the discussion of recent Commission actions at public meetings or symposia.

11. Additionally, the Commission proposes certain specific provisions of the ex parte rules. First, the Commission proposes to give additional authority to the Office of General Counsel to evaluate alleged ex parte violations. Second, the Commission proposes that notices of oral ex parte presentations should be more informative by requiring that a full summary of the contents of the presentation be filed with respect to all oral presentations, whether or not the arguments or data presented are "new." Third, the Commission proposes to require that persons with reason to believe that a situation raises an ex parte question must alert the Office of General Counsel of this circumstance.

Initial Regulatory Flexibility Analysis

Reason for Action

The Commission has determined that the rules governing ex parte communications in Commission proceedings should be made simpler, clearer, and less restrictive. The

Commission finds it appropriate to reexamine the public interest basis for the limitations on ex parte communications.

Objective

The Commission seeks to simplify and clarify the rules governing ex parte communications in Commission proceedings and to make the rules more consistent with the needs of administrative practice.

Legal Basis

Action is being taken pursuant to 47 U.S.C. §§ 154(i) and (j), 303(r), 403.

Reporting, Record Keeping and Other Compliance Requirements

This proposal would modify the requirement to report ex parte presentations in order to increase the usefulness and value of the reports and to eliminate unnecessary restrictions on ex parte presentations.

Federal Rules which Overlap, Duplicate or Conflict with the Proposed Rules

None.

Description, Potential Impact, and Number of Small Entities Affected

Small entities participating in Commission proceedings would be subject to limitations on ex parte presentations.

Any Significant Alternative Minimizing Impact on Small Entities and Consistent with the Stated Objections

None.

List of Subjects for 47 CFR Part 1

Administrative practice and procedure, Radio, Telecommunications, Television.

Federal Communications Commission.

William F. Caton,
Secretary.

[FR Doc. 95-3935 Filed 2-15-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 63

[CC Docket No. 87-266; FCC 95-20]

Telephone Company-Cable Television Cross-Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission adopted a Fourth Further Notice of Proposed Rulemaking in Common Carrier Docket 87-266, with the intent of soliciting information and comment on the extent to which Title II of the Communications

Act, Title VI, or both, apply to a telephone company's provision of video programming directly to subscribers within its telephone service area. The Commission also requested comment on what changes, if any, need to be made to the video dialtone regulatory framework if a telephone company decides to become a video programmer on its own video dialtone platform in its telephone service area, and in particular, whether telephone company provision of video programming raises new concerns about anticompetitive behavior or cross-subsidy that the Commission's existing regulatory framework may not sufficiently address.

DATES: Comments must be submitted on or before March 6, 1995. Reply comments are due on March 27, 1995.

ADDRESSES: Comments and Reply Comments may be mailed to the Office of the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554. A copy of each filing should also be filed with Peggy Reitzel of the Common Carrier Bureau, and James Yancey of the Cable Services Bureau.

FOR FURTHER INFORMATION CONTACT: Jane Jackson (202) 418-1593, Common Carrier Bureau, Policy and Program Planning Division, and Larry Walke (202) 416-0847, Cable Services Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Fourth Further Notice of Proposed Rulemaking in Common Carrier Docket 87-266: Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, adopted January 12, 1995, and released January 20, 1995. The complete text of this Fourth Further Notice of Proposed Rulemaking is available for inspection and copying, Monday through Friday, 9:00 a.m.-4:30 p.m., in the FCC Reference Room (Room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of the Fourth Further Notice of Proposed Rulemaking may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Synopsis of Fourth Further Notice of Proposed Rulemaking

A. Governing Statutory Provisions.

1. Local exchange carrier (LEC) provision of video programming raises questions about whether Title II of the Communications Act, Title VI of the Communications Act, or both, would govern particular LEC video offerings, and how these provisions might apply to a LEC's provision of video