

"Public Health Service Policy on Humane Care and Use of Laboratory Animals," Office for Protection from Research Risks, NIH (Revised September 1986) 59 FR 14508 (as republished March 28, 1994)—NIH Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research

[FR Doc. 95-5433 Filed 3-6-95; 8:45 am]

BILLING CODE 4140-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 95-20; FCC 95-48]

Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On October 18, 1994, the United States Court of Appeals for the Ninth Circuit remanded in part the Commission's *BOC Safeguards Order* in the *Computer III* proceedings, which had established procedures for the Bell Operating Companies (BOCs) to offer enhanced services on a structurally integrated basis. This Notice of Proposed Rulemaking responds to the court decision. The Notice reviews the nonstructural safeguards that have been implemented under the *Computer III* framework, and asks parties to comment on the specific issue remanded by the court, as well as on the broader question of whether structural separation should be reimposed for some or all BOC enhanced services.

DATES: Comments must be filed on or before April 7, 1995, and reply comments must be filed on or before April 28, 1995.

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

FOR FURTHER INFORMATION CONTACT: Rose Crellin at (202) 418-1571 or Kevin Werbach at (202) 418-1597, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 95-48, adopted February 7, 1995 and released February 21, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street NW., Washington, DC.

The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

1. In the *Computer III* proceeding, beginning with the *Phase I Order* (51 FR 24350 (July 3, 1986)), the Commission concluded that the Bell Operating Companies (BOCs) should be permitted to offer enhanced services without establishing structurally separate subsidiaries. Enhanced services use the existing telephone network to deliver services—such as voice mail, E-Mail, and gateways to on-line databases—beyond a basic transmission offering. Under structural separation requirements, the BOCs had to form subsidiary companies, with separate personnel, facilities, and equipment, to offer these services. The need for safeguards on BOC provision of enhanced services arises from the fact that competing enhanced service providers generally must depend on the BOC networks to transport their services to customers. The Commission has identified two primary forms of anticompetitive conduct that may arise from BOC involvement in the enhanced services marketplace: (1) Improper cross-subsidization, in which the BOCs undercut competing enhanced service providers (ESPs) by shifting costs from their enhanced services to their regulated basic services; and (2) access discrimination, in which BOCs provide competing ESPs with inferior interconnection and access to network services that these companies need for their enhanced services.

2. In *Computer III*, the Commission determined that the benefits of lifting structural separation requirements—in terms of increased availability of enhanced services—outweighed the risks of anticompetitive conduct by the BOCs, and that a regime of nonstructural safeguards could provide adequate protection against cross-subsidization and access discrimination. The Commission established a two-step process in *Computer III* for lifting structural separation restrictions. Initially, BOCs were permitted to offer individual enhanced services on a structurally integrated basis once they had received FCC approval of service-specific Comparably Efficient Interconnection (CEI) plans. Those plans were required to detail how the BOCs would make the underlying network services used by their own enhanced service offerings available to

competing ESPs on an equal access basis. In the second stage of *Computer III*, BOCs were required to develop Open Network Architecture (ONA) plans detailing how they would unbundle and make available basic network services, and describing how they would comply with other nonstructural safeguards. Upon FCC approval of the initial BOC ONA plans, the remaining structural separation requirements were to be lifted. Following a remand from the Court of Appeals for the Ninth Circuit, the Commission strengthened and reaffirmed its regime of nonstructural safeguards in the 1991 *BOC Safeguards Order* (57 FR 4373 (February 5, 1992)). Between 1992 and 1993, the Common Carrier Bureau granted full structural relief to the BOCs upon a showing that they had complied with the requirements of the *BOC Safeguards Order*, and those decisions were subsequently ratified by the Commission.

3. In October, 1994, the United States Court of Appeals for the Ninth Circuit partially remanded the *BOC Safeguards Order*. The court concluded that the Commission had scaled back its conception of ONA from the original vision in *Computer III*, and had not explained how the more limited version of ONA represented in the approved BOC ONA plans provided sufficient protection against BOC access discrimination. On this basis, the court held that the FCC's cost benefit analysis for fully lifting structural separation restrictions was flawed. On January 11, 1995, the Common Carrier Bureau clarified the requirements for BOC provision of enhanced services after the Ninth Circuit decision, and granted the BOCs interim waivers to offer new services, subject to certain restrictions and filing requirements, during the pendency of remand proceedings.

4. In this Notice of Proposed Rulemaking, the Commission has initiated a proceeding to reexamine its *Computer III* rules in light of the most recent Ninth Circuit remand. The Commission noted that the partial vacation of the *BOC Safeguards Order* generally reinstates the *Computer III* service-by-service CEI plan regime, subject to the modification spelled out in the Common Carrier Bureau's waiver order. The Commission concluded that the Ninth Circuit had remanded the specific issue of whether the existing nonstructural safeguards including the level of network unbundling under ONA, are sufficient to justify fully lifting structural separation requirements.

5. The Notice of Proposed Rulemaking reviewed the various nonstructural

safeguards the Commission has put into place to protect against anticompetitive practices by the BOCs. The Commission described how the ONA model had evolved, and the forms of network unbundling it encompasses today and is likely to cover in the future. The Notice of Proposed Rulemaking also outlined the other safeguards that are designed to work in concert with ONA to protect against anticompetitive practices by the BOCs. Parties were asked to comment on the specific issue identified by the court: Whether these nonstructural safeguards are sufficient for the BOCs to be granted full structural relief.

6. The Commission also asked parties to comment on broader issues regarding the relative merits of structural and nonstructural safeguards. The Commission noted that, although there is evidence to suggest that nonstructural safeguards have been effective, various parties have argued that structural separation should be reimposed on the BOCs. In order to provide it with information to make an informed decision, the Commission asked commenters to provide specific evidence as to the relative costs and benefits of structural separation and nonstructural safeguards.

7. The Notice of Proposed Rulemaking also sought comment on the protection against discrimination necessary to allow ESPs and BOCs to compete effectively without creating unnecessary burdens, whether certain types of enhanced services may require greater protection than others, and whether structural separation or additional nonstructural safeguards are needed for specific enhanced services. Parties were asked to identify any specific unbundled network services that BOCs do not currently provide which meet the criteria established in *Computer III* for service unbundling. To the extent that parties propose a reimposition of structural separation, the Commission asked that they identify the benefits that they believe will accrue for the provision of enhanced services to consumers from such action, and articulate why these benefits cannot be achieved under a regime of nonstructural safeguards.

8. Finally, the Commission recognized that a return to some form of structural separation requirements at this time would impose certain transition costs on the BOCs, and could result in service disruption and customer confusion. The Commission therefore asked parties to identify transitional expenses that would be borne by customers of BOC enhanced services, and to indicate whether a return to structural separation requirements would result in

disruptions of service or confusion among customers. To the extent that parties believe structural separation is appropriate, the Commission asked them to describe particular scenarios and timetables under which BOCs would be required to move from the existing partially integrated CEI plan regime, and to identify the specific costs and benefits of those scenarios.

Ordering Clauses

1. Accordingly, *it is ordered* That, pursuant to the authority contained in sections 1, 4, and 201-205 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, and 201-205, a Notice of Proposed Rulemaking is hereby adopted.

List of Subjects in 47 CFR Part 64

Communications common carriers, Computer technology.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

[FR Doc. 95-5491 Filed 3-6-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 95-29, RM-8596]

Radio Broadcasting Services; Iron Mountain, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Superior Media Group, Inc., proposing the allotment of Channel 294A to Iron Mountain, Michigan, as that community's third local FM service. The channel can be allotted to Iron Mountain without a site restriction at coordinates 45-49-12 and 88-04-06. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before April 24, 1995, and reply comments on or before May 9, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Matthew H. McCormick, Reddy, Begley, Martin & McCormick, 1001 22nd Street, NW, Suite 350, Washington, D. C. 20037.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of*

Proposed Rule Making, MM Docket No. 95-29, adopted February 21, 1995, and released March 2, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-5492 Filed 3-6-95; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF DEFENSE

48 CFR Parts 45, 52

Federal Acquisition Regulation; Government Property

AGENCY: Department of Defense.

ACTION: Notice of cancellation and rescheduling of public meeting.

SUMMARY: The public meetings originally scheduled for March 9, and 10, 1995, as part of the continuing initiative to rewrite the Federal Acquisition Regulation (FAR) Part 45, Government Property, have been canceled and rescheduled for April 6, 1995, and April 7, 1995.

DATES: Public Meetings: The public meetings will be conducted at the address shown below from 12:30 p.m. to 5:00 p.m., local time, on April 6, 1995; and from 9:30 a.m. to 5:00 p.m., local time, on April 7, 1995.

Statements: Statements from interested parties for presentation at the