

47 CFR Part 73

[MM Docket No. 93-203, RM-8245, RM-8340; MM Docket No. 93-206, RM-8284; MM Docket No. 93-213, RM-8351; MM Docket 93-256, RM-8326]

Radio Broadcasting Services; Isleboro and Winter Harbor, ME, Hermantown, MN, Balsam Lake, WI, Taylorville, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal of.

SUMMARY: The Commission grants the requests of Lakeside Broadcasting, Inc. and Christopher DiPaola to withdraw their petitions for reconsideration and motions for stay of the *Order* in the above-listed proceedings which announced a thirty-day application filing window opening on January 6, 1995, and closing on February 6, 1995. See 59 FR 61327, November 30, 1994.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 93-203, et al., adopted March 24, 1995, and released April 10, 1995. The full text of this Commission decision 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 of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

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[MM Docket No. 95-39; FCC 95-144]

Broadcast Services; Financial Interest and Syndication Rules

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rule Making is needed to initiate the planned review of the FCC's financial interest and syndication rules prior to their

scheduled expiration date on November 10, 1995. The burden of proof in this proceeding is on those parties arguing for continuation of the rules; if these parties fail to carry this burden, the rules will be allowed to expire. The Commission also seeks comment on whether, in the event these parties do not meet their burden of proof, it should accelerate the expiration date of the rules.

DATES: Comments are due by May 30, 1995, and reply comments are due by June 14, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Charles Logan, (202) 776-1653.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making in MM Docket No. 95-39, FCC 95-144, adopted and released on April 5, 1995. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., suite 140, Washington, DC 20037, (202) 857-3800.

Synopsis of Notice of Proposed Rule Making

1. The Commission's financial interest and syndication ("fin/syn") rules, originally adopted in 1970, placed significant restrictions on the ability of the established networks (ABC, CBS, and NBC) to own television programming and engage in the practice of syndication. In the Second Report and Order in MM Docket No. 90-162, 58 FR 28927 (May 18, 1993) ("Second R&O"), recon. granted in part, Memorandum Opinion and Order, 58 FR 65132 (Dec. 13, 1993), the Commission eliminated certain aspects of the fin/syn rules immediately, including restrictions on network acquisition of financial interests and passive syndication rights in network programming. The Commission also established a timetable for the expiration of the remaining rules, which include restrictions on network involvement in the active syndication and first-run markets, as well as anti-warehousing safeguards. Under this timetable, these remaining rules are now set to expire on November 10, 1995. The Commission's decision in the Second R&O was upheld on appeal by the United States Court of Appeals for the Seventh Circuit ("Seventh Circuit").

Capital Cities/ABC, Inc. v. FCC, 29 F.3d 309 (7th Cir. 1994).

2. The Commission also determined in the Second R&O that, prior to the scheduled expiration of the remaining fin/syn rules, it would conduct a review of network activities in the financial interest and syndication areas, and that this review would be initiated no later than six months prior to the rules' scheduled expiration date, *i.e.*, no later than May 10, 1995. This Notice of Proposed Rule Making ("NPRM") initiates this planned review. It provides an opportunity for comment on the accuracy of the Commission's conclusion in the Second R&O that the remaining fin/syn restrictions should be eliminated. The NPRM states that comments submitted by parties who oppose the scheduled expiration of these restrictions will need to prove that, based on the current status of the program production and distribution markets and the activities of the networks since 1993, the Commission should continue regulation in this area. Parties arguing for retention of fin/syn restrictions should support their positions with empirical data and economic analysis.

3. The Commission lists the following factors as being relevant to its review of the rules: (1) The extent to which a network-owned program is syndicated primarily to that network's affiliates; (2) patterns that reveal daily in the introduction of network programs (in which the networks had financial interests or syndication rights) into the syndication market; (3) the percentage of network programming in which a network has obtained a financial interest or syndication right; (4) the relative change in the number of independent producers creating and selling television shows to the networks; (5) each network's share of the first-run syndicated programming domestic market; (6) concentration of ownership in the program production industry; (7) audience shares of first-run syndicated programming carried by non-network affiliated stations during prime time; (8) the overall business practices of emerging networks, such as Fox, in the network television and syndication business; (9) network negotiating patterns, particularly the manner in which networks obtain financial interests and syndication rights and the extent to which successful negotiations over back-end rights influence network buying decisions; (10) network syndication practices, to the extent they are permitted; (11) the relationship and business arrangements between networks and third-party syndicators of off-network programming; (12) mergers