

**FEDERAL COMMUNICATIONS  
COMMISSION**
**47 CFR Part 0**
**[FCC 98-136]**
**Rules To Reflect the Elimination of the  
Competition Division**
**AGENCY:** Federal Communications  
Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Commission's rules to reflect: the elimination of the Competition Division within the Office of General Counsel; changes in the functions of the Office of General Counsel and Office of Plans and Policy; and a delegation of authority to the Common Carrier Bureau to act on applications for determinations of exempt telecommunications company status.

**EFFECTIVE DATE:** February 8, 1999.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Dorch, Office of Engineering and Technology, (202) 418-1868.

**SUPPLEMENTARY INFORMATION:**

1. Through this *Order*, FCC 98-136, adopted June 23, 1998, and released June 29, 1998, the Commission eliminates the Competition Division of the Office of General Counsel. We conclude that this action, and reassignment of the personnel involved, will make more effective and efficient use of the Commission's scarce resources.

2. The implementation of this decision requires amendment of part 0 of the Commission's rules and regulations. This *Order* makes the necessary revisions and other minor editorial changes in part 0 of the Commission's rules. To ensure continuity in the dispatch of the duties and functions performed by the Competition Division, certain responsibilities and delegations of authority are being reassigned. In particular, 47 CFR 0.21 and 0.41 are amended by revising the duties and responsibilities of the Office of General Counsel by eliminating paragraph (g) of section 0.41 and by transferring from the Office of General Counsel to the Office of Plans and Policy the responsibility to help ensure that FCC policy encourages and promotes competitive market structures by providing bureaus and offices with the necessary support to identify, evaluate, and effectively and consistently resolve competitiveness issues.

3. The General Counsel currently has delegated authority, pursuant to 47 CFR 0.251(g), to act upon any application for

a determination of exempt telecommunications company status filed pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 103 of the Telecommunications Act of 1996. See *Amendment of Part 0 of the Commission's Rules to Delegate Authority to the General Counsel to Act Upon Applications for Determination of Exempt Telecommunications Company Status*, 11 FCC Rcd 22166 (1996) 61 FR 26464, May 28, 1996. The Commission has concluded that the effective and efficient dispatch of these duties and responsibilities is best ensured by delegating such authority to the Common Carrier Bureau.

4. The amendments adopted herein pertain to agency organization. The notice and comment and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, are therefore inapplicable. Authority for the amendments adopted herein is contained in Sections 4(i), 5(b) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(b) and 155(c).

5. Accordingly, it is ordered, pursuant to authority delegated by Commission Order, FCC 98-136, released June 29, 1998, and effective upon publication in the **Federal Register**, that part 0 of the Commission's rules and regulations is amended as set forth in the rule changes.

**List of Subjects in 47 CFR Part 0**

Organization and functions  
(government agencies).

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

**Rule Changes**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

**PART 0—COMMISSION  
ORGANIZATION**

1. The authority citation for part 0 continues to read as follows:

**Authority:** Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.21 is amended by adding a new paragraph (j) to read as follows:

**§ 0.21 Functions of the Office.**

\* \* \* \* \*

(j) To help ensure that FCC policy encourages and promotes competitive market structures by providing bureaus and offices with the necessary support to identify, evaluate, and effectively and

consistently resolve competitiveness issues.

**§ 0.41 [Amended]**

3. Section 0.41 is amended by removing paragraph (g) and redesignating paragraphs (h) through (o) as (g) through (n).

**§ 0.251 [Amended]**

4. Section 0.251 is amended by removing paragraph (g) and redesignating paragraphs (h) and (i) as (g) and (h).

5. Section 0.304 is added to read as follows:

**§ 0.304 Authority for determinations of  
exempt telecommunications company  
status.**

Authority is delegated to the Chief, Common Carrier Bureau to act upon any application for a determination of exempt telecommunications company status filed pursuant to section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 103 of the Telecommunications Act of 1996.

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**FEDERAL COMMUNICATIONS  
COMMISSION**
**47 CFR Parts 11 and 76**

[FO Docket No. 91-171, 91-301; FCC 98-329]

**Emergency Alert System**

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Termination of rulemaking.

**SUMMARY:** In this *Third Report and Order* the FCC determined that cable systems should not be required to install channel override equipment in order to prevent EAS messages from appearing on specific channels on a cable system. In the *Second Further Notice and Proposed Rule Making* 63 FR 29660, June 1, 1998, the Commission requested comment regarding the effectiveness of proposed rule amendments that would require cable systems to purchase and install equipment to prevent EAS messages from overriding broadcast stations programming carried on a cable system. Commission rules allow broadcast stations and cable system operators to enter into voluntary written agreements that prevent broadcast program interruption. After review of the record it was determined that the Commission should not mandate rules to require broadcast channel overrides.

**FOR FURTHER INFORMATION CONTACT:** Frank Lucia, Compliance and Information Bureau, (202) 418-1220.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Third Report and Order* in FO Dockets 91-171/91-301, adopted December 14, 1998, and released December 23, 1998.

The full text of this Federal Communications Commission's (FCC) *Third Report and Order* is available for inspection and copying during normal business hours in the FCC's Public Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554. The complete text may also be purchased from the Commission's duplication contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, D.C. 20336; phone: (202) 857-3800, facsimile: (202) 857-3805.

### Synopsis of Third Report and Order

The FCC adopted a *Third Report and Order* which declined to mandate rules that require the installation of selective channel switching equipment at cable systems. This equipment prevents program interruption on broadcast channels carried on cable systems during cable initiated EAS activations. The FCC has not changed or amended the rules that provide for cable and broadcast stations entering into voluntary written agreements that prevent EAS interruption to a broadcast station. Finally, the *Third Report and Order* also rejected arguments to preempt provisions of local franchise agreements that require local emergency messages. The record indicates that many local municipalities use cable franchise agreements as a primary means of alerting residents to non-weather related local emergencies.

### Background

EAS replaced the Emergency Broadcast System (EBS), and uses various communications technologies, such as broadcast stations and cable systems, to alert the public regarding national, state and local emergencies. EAS, compared to EBS, includes more sources capable of alerting the public and specifies new equipment standards and procedures to improve alerting capabilities.

In 1994 the Commission issued a *Report and Order and Further Notice of Proposed Rulemaking* 59 FR 67090, December 28, 1994. This proceeding directed broadcast stations and cable system participation in EAS. In our *Memorandum Opinion and Order*, 10 FCC Rcd 11494 (1995), we responded to petitions for reconsideration filed regarding the *Report and Order and*

*Further Notice of Proposed Rulemaking*. We found no merit in arguments asserting that the statutory language exempts local broadcast station programming from interruption by cable system EAS requirements. The *Memorandum Opinion and Order* also rejected NAB's arguments that EAS interruptions violate provisions set forth in the Copyright Act and the Commissions must carry rules.

The *Second Report and Order*, which was released in September of 1997, modified some of the requirements in the *Report and Order* and addressed issues raised in the *FNPRM* that applied to wired and wireless cable systems. The *Second Report and Order* also declined to exercise preemption of local cable franchise agreements unless a jurisdiction takes action that interferes with the national warning functions of EAS.

### Legal Basis

Authority for issuance of this Third Report and Order is contained in Sections 4(i), 257, 303(b), 303(g), 303(r), 309(j), and 332(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 257, 303(b), 303(g), 303(r), 309(j), and 332(a).

### List of Subjects

#### 47 CFR Part 11

Emergency alert system.

#### 47 CFR Part 76

Cable television.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 100

[MM Docket 93-25; FCC 98-307]

### Direct Broadcast Satellite Public Interest Obligations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission imposes requirements on Direct Broadcast Satellite Service (DBS) providers to comply with the political broadcast rules of the Communications Act of 1934, as amended, and mandates that DBS providers reserve between 4 percent and 7 percent of their channel capacity exclusively for

“noncommercial programming of an educational or informational nature.” These rules will provide for the carriage on DBS systems of qualified political candidates for national office and will make DBS channel capacity available to “national educational programming suppliers,” upon reasonable prices, terms, and conditions.

**DATES:** Effective June 15, 1999 except for § 100.5(c)(6) which contains information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for that section. Written Comments regarding the Paperwork Reduction Act requirements in § 100.5(c)(6) should be submitted on or before April 9, 1999.

**ADDRESSES:** Comments regarding the paperwork reduction act requirements in § 100.5(c)(6) should be submitted to Les Smith at 445 12th Street S.W., Rm. 1-A804, Washington D.C. 20554 or via internet at lesmith@fcc.gov; phone 202-418-0217.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding the *Report and Order* contact Rosalee Chiara (202) 418-0754 or James Taylor (202) 418-2113 of the International Bureau. For more information regarding the information collections and to submit comments, contact Les Smith at 202-418-0217; 445 12th Street S.W., Rm. 1-A804, Washington D.C. 20554 or via internet at lesmith@fcc.gov, and Timothy Fain, OMB Desk Officer, Rm. 10236 NEOB, 725 17th Street, N.W., Washington, D.C. 20503 or fain\_t@al.eop.gov.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* in MM Docket No. 93-25; FCC 98-307, adopted November 19, 1998 and released on November 25, 1998. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room), 445 12th Street, S.W. Washington, D.C. 20554, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, DC 20036, telephone: 202-857-3800, facsimile: 202-857-3805.

### Summary of Report and Order

1. On March 2, 1993 the Commission released a Notice of Proposed Rulemaking to implement Section 25 of the 1992 Cable Television Consumer Protection and Competition Act of 1992