

prior written approval of the Corporation. Absent approval from the Corporation, all unexpended funds under such grants shall be returned to the Corporation.

§ 1628.4 Procedures.

(a) Within 30 days of the submission to LSC of its annual audited financial statements, a recipient may request a waiver of the 10% ceiling on LSC fund balances. The request shall specify:

(1) The LSC fund balance as reported in the recipient's annual audited financial statements;

(2) The reason(s) the excess fund balance resulted;

(3) The recipient's plan for disposition of the excess fund balance during the current fiscal year;

(4) The amount of fund balance projected to be carried forward at the close of the recipient's current fiscal year; and

(5) The special circumstances justifying the retention of the excess fund balance up to 25%, or the extraordinary and compelling circumstances set out in § 1628.3(c) justifying a fund balance in excess of 25%.

(b) Within 45 days of receipt of the recipient's waiver request submitted pursuant to paragraph (a) of this section, the Corporation shall provide a written response to the request and a written notice to the recipient of any fund balance due and payable to the Corporation as well as the method for repayment.

(c) In the event that repayment is required, the Corporation shall give written notice 30 days prior to the effective date for repayment. Repayment shall be in a lump sum or by pro rata deductions from the recipient's grant checks for a specific number of months. The Corporation shall determine which of the specified methods of repayment is reasonable and appropriate in each case after consultation with the recipient.

(d) The decision of the Corporation regarding the granting of a waiver shall be guided by the statutory mandate requiring the recipient to provide high quality legal services in an effective and economical manner. In addition, the Corporation shall consider the following factors:

(1) Emergencies, unusual or unexpected occurrences, or the circumstances giving rise to the existence of a fund balance in excess of 10% of LSC support set out in § 1628.3(b) or (c);

(2) the special needs of clients;

(3) The need to retain a cash reserve for payments to private attorneys

participating in the recipient's private attorney involvement (PAI) program; for acquisition of equipment or property; or for other expenditures which are reasonable and necessary for the performance of the LSC grant; and

(4) The recipient's financial management record.

(e) The Corporation's written approval of a request for a waiver shall require that the recipient use the funds it is permitted to retain within the time period set out in the approval and for the purposes approved by the Corporation.

(f) Excess fund balances approved by the Corporation for expenditure by a recipient shall be separately reported by natural line item in the current fiscal year's audited financial statements. This may be done by establishing a separate fund or by providing a separate supplemental schedule as part of the audit report.

(g) The recipient shall promptly inform and seek guidance from the Corporation when it determines a need for any changes to the conditions on timing or purposes set out in the Corporation's written approval of a recipient's request for a waiver.

§ 1628.5 Fund balance deficits.

(a) Sound financial management practices such as those set out in Chapter 3 of the Corporation's Accounting Guide for LSC Recipients should preclude deficit spending. Use of current year LSC grant funds to liquidate deficit balances in the LSC fund from a preceding period requires the prior written approval of the Corporation.

(b) Within 30 days of the submission of the recipient's annual audit, the recipient may apply to the Corporation for approval of the expenses associated with the liquidation of the deficit balance in the LSC fund.

(c) In the absence of approval by the Corporation, expenditures of current year LSC grant funds to liquidate a deficit from a prior year shall be identified as questioned costs under 45 CFR part 1630.

(d) The recipient's request must specify the same information relative to the deficit LSC fund balance as that set forth in § 1628.4(a)(1) and (2). Additionally, the recipient must develop and submit a plan approved by its governing body describing the measures which will be implemented to prevent a recurrence of a deficit balance in the LSC fund. The Corporation reserves the right to require changes in the submitted plan.

(e) The decision of the Corporation regarding acceptance of these deficit-

related costs shall be guided by the statutory mandate requiring the recipient to provide high quality legal services performed in an effective and economical manner. Special consideration will be given for emergencies, unusual occurrences, or other special circumstances giving rise to a deficit balance.

Dated: October 31, 2000.

Victor M. Fortuno,

Vice President for Legal Affairs.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 83-484; FCC 00-386]

Repeal or Modification of the Personal Attack and Political Editorial Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerns repeal of the personal attack and political editorial rules for broadcast licensees and cable system operators. This order repeals the broadcast and cable personal attack and political editorial rules. The order also vacates the Commission's earlier Order and Request to Update Record which had suspended for 60 days the personal attack and political editorial rules. The U.S. District Court of Appeals, D.C. Circuit, by order of October 11, 2000 directed the Commission to repeal the rules, noting that the Commission may institute a new rulemaking proceeding to determine whether, consistent with constitutional constraints, the public interest requires the personal attack and political editorial rules.

DATES: This rule is effective October 26, 2000.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Cyndi Thomas, Policy and Rules Division, Mass Media Bureau, at (202) 418-2600.

SUPPLEMENTARY INFORMATION: This is a summary of the *Order* in MM Docket No. 83-484, FCC 00-386, adopted October 26, 2000; released October 26, 2000. The full text of this decision is available for inspection and copying during regular business hours in the FCC Reference Center, 445 Twelfth Street, SW., Room CY-A257,

Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 445 Twelfth Street, SW., Room CY-B402, Washington, DC. The complete text is also available under the file name fcc00386.pdf on the Commission's Internet site at www.fcc.gov.

Synopsis of Order

1. Pursuant to the D.C. Circuit Court of Appeals' order in *Radio-Television News Directors Association v. FCC*, No. 98-1305, slip op. (D.C. Cir. Oct. 11, 2000) (*RTNDA*), the Commission hereby repeals §§ 73.1920 and 73.1930 of our rules, 47 CFR 73.1920, 73.1930, the broadcast personal attack and political editorial rules. Further, in light of these actions, the Commission vacates its *Order and Request to Update Record* released October 4, 2000 (FCC 00-360) (65 FR 60387, October 11, 2000) and terminate this proceeding.

2. The Commission also repeals the personal attack and political editorial rules that apply to cable television operators. 47 CFR 76.209(b), (c), and (d). Although these rules were not specifically cited in the proceeding before the Court of Appeals in *RTNDA*, they are identical to those rules in all material respects. The potential elimination of these rules was raised in a Notice of Proposed Rule Making in MM Docket No. 83-331, 48 FR 26471 (June 8, 1983), and was specifically addressed in a 1996 request for further information in the instant docket, MM Docket No. 83-484, 48 FR 28295 (June 21, 1983). Given the delay in concluding these proceedings and the Court of Appeals' decision, the Commission also vacates these identical cable television rules placed at issue in MM Docket No. 83-331. The Commission does so on the procedural grounds set forth in the Court of Appeals' decision in *RTNDA*, without expressing any conclusion as to the substantive issues underlying these rules. As the Court of Appeals noted, "[o]f course, the Commission may institute a new rule-making proceeding to determine whether, consistent with constitutional constraints, the public interest requires the personal attack and political editorial rules." *RTNDA*, slip op. at 4. With respect to the personal attack and political editorial rules, "these are issues that the court has yet to decide." *Id.*

Ordering Clauses

3. Sections 73.1920, 73.1930 and 76.209(b), (c), and (d) of the Commission's rules, 47 CFR 73.1920, 73.1930, 76.209(b), (c), (d) are repealed.

4. The Commission's rules are amended as set forth.

5. The *Order and Request to Update Record*, FCC 00-360 (rel. Oct. 4, 2000) is vacated.

6. This proceeding is terminated.

7. This action is taken pursuant to sections 4(i), 4(j) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303.

List of Subjects

47 CFR Part 73

Radio, television broadcasting.

47 CFR Part 76

Cable television service.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

Parts 73 and 76 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.1920 [Removed]

2. Section 73.1920 is removed.

§ 73.1930 [Removed]

3. Section 73.1930 is removed.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

4. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 317, 325, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

5. Sections 76.209 is revised to read as follows:

§ 76.209 Fairness doctrine; personal attacks; political editorials.

A cable television system operator engaging in origination cablecasting shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

Note to § 76.209: See public notice, "Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance," 29 FR 10415.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 96-86; FCC 00-348]

Development of Operational Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communication Requirements through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission adopts a revised band plan for the Public Safety 700 MHz band, which is twenty-four megahertz of spectrum allocated for public safety services at 764-776 MHz and 794-806 MHz ("the 700 MHz band"). This new plan represents an improved layout and will promote better assignment and operational possibilities for the public safety community. The Commission also adopts technical criteria to protect certain global navigation satellite systems (GNSS). The agency designates channels for mutual aid purposes in the public safety bands below 512 MHz to improve interoperability capabilities for public safety entities that operate in these existing bands.

DATES: Effective December 7, 2000.

FOR FURTHER INFORMATION CONTACT: Peter Daronco pdaronco@fcc.gov or Karen Franklin kfrankli@fcc.gov, at (202) 418-0680, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This document is a summary of the Commission's Third Memorandum Opinion and Order (Third MO&O) and Third Report and Order (Third R&O), FCC 00-348 in WT Docket No. 96-86, adopted on September 18, 2000, and released on October 10, 2000. The full text of this Third MO&O and Third R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20037. The full text may also be downloaded at www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418-0260 or TTY (202) 418-2555.