

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 2**

[ET Docket Nos. 00–258 and 95–18, IB Docket No. 99–81; DA 01–2313]

Introduction of New Advanced Mobile and Fixed Terrestrial Wireless Services; Use of Frequencies Below 3 GHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In this document, the Commission extends the period for comment and reply comment in the proceeding that was initiated to explore the possible use of frequency bands below 3 GHz to support the introduction of new advanced mobile and fixed terrestrial wireless services (advanced wireless services) including third generation (3G) and future generations of wireless systems. The Commission extends the period for comment at the request of the Cellular Telecommunications & Internet Association (CTIA) in order to allow sufficient time to establish the most complete and well-delivered record possible on which to base an ultimate decision.

DATES: Comments are due on or before October 19, 2001, and Reply Comments are due on or before November 5, 2001.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John Spencer, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Order Extending Comment Period in ET Docket Nos. 00–258 and 95–18, and IB Docket No. 99–81, DA 01–2313, adopted October 4, 2001, and released October 4, 2001. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

1. The Commission extends the comment period established in the Further Notice of Proposed Rulemaking in this proceeding (66 FR 47618, September 13, 2001) from October 11, 2001, to October 19, 2001, and the reply

comment period from October 23, 2001, to November 5, 2001.

Ordering Clause

2. The request of CTIA to extend the deadline for filing comments in this proceeding, filed September 25, 2001, is granted to the extent indicated, pursuant to § 1.46 of the Commission's rules, 47 CFR 1.46.

Federal Communications Commission.

Kathleen O'Brien Ham,

Deputy Chief, Wireless Telecommunications Bureau.

[FR Doc. 01–25640 Filed 10–10–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 21, 73 and 76**

[CS Docket Nos. 98–82 and 96–85, MM Docket Nos. 92–264, 94–510, 92–51 and 87–154, FCC 01–263]

The Commission's Cable Horizontal and Vertical Ownership Limits and Cable, Broadcast and MDS Attribution Rules

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: This document examines and solicits comment on the Commission's cable horizontal and vertical limits and aspects of its attribution rules as affected by the recent D.C. Circuit decision in *Time Warner Entertainment Co. v. FCC*, 240 F.3d 1126 (D.C. Cir. 2001). The D.C. Circuit reversed and remanded the Commission's horizontal and vertical limits, and vacated two aspects of its attribution rules.

DATES: Comments are due on or before December 26, 2001, and reply comments are due on or before January 25, 2002.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Daniel Hodes, Kiran Duwadi, Ava Holly Berland, Andrew Wise, Cable Services Bureau, (202) 418–7200, TTY (202) 418–7365 or via Internet at dhodes@fcc.gov, kduwadi@fcc.gov, hberland@fcc.gov, awise@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Further Notice of Proposed Rulemaking* ("FNPRM") in CS Docket Nos. 98–82, 96–85, MM Docket Nos. 92–264, 94–150, 92–51, 87–154, FCC 01–263, adopted September 13, 2001, and

released September 21, 2001. The complete text of this FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B402, Washington, DC, 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via Internet at qualexint@aol.com, or may be viewed via Internet at <http://www.fcc.gov/csb/>. This document is also available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Brian Millin at (202) 418–7426, TTY (202) 418–7365, or send an email to access@fcc.gov.

Synopsis of Notice of Inquiry

1. As part of the 1992 Cable Act, Congress added section 613(f) to the Communications Act of 1934. The principal objective of section 613(f) was to enhance competition in the acquisition and distribution of video programming by cable and non-cable systems. Congress expressed a preference for competition over regulation in achieving this objective, believing that the presence of alternative cable and non-cable multi-channel video programming distributors ("MVPDs") would constrain the cable operators' market power in the acquisition and distribution of multi-channel programming, as well as improve their service and programming quality and curb their subscription rate increases. However, at the time, given the absence of effective competition to, and the trend toward increased horizontal concentration and vertical integration in, the cable industry, Congress believed structural limits were necessary. Congress thus enacted section 613(f), which directs the Commission to establish limits: (1) on the number of subscribers a cable operator may serve through its owned or affiliated cable systems (horizontal limit); and (2) on the number of channels a cable operator may devote to its owned or affiliated programming (vertical limit).

2. In response to the congressional directive, the Commission adopted a horizontal ownership limit that barred a cable operator from owning or having an attributable interest in cable systems that reach more than 30 percent of subscribers served by all multichannel video programming distributors ("MVPDs") nationwide. The Commission also adopted a vertical

limit that prohibited a cable operator from carrying affiliated programming on more than 40 percent of its channels. The Commission's vertical limit only applied to channel capacity up to 75 channels. Thus, for a cable operator that had more than 75 channels, the vertical limit required the operator to reserve 45 channels for non-affiliated programming. Finally, the Commission adopted attribution rules, which defined the level of ownership interests implicated by the horizontal and vertical limits.

3. The DC Circuit in *Time Warner* reviewed the Commission's cable horizontal and vertical limits. The DC Circuit essentially found that in establishing these limits, the Commission did not adequately take into account the evolving and increasingly competitive MVPD marketplace, did not draw the necessary connections between the limits and the harms the limits were designed to address, and did not sufficiently support its limits with a full record of empirical or theoretical evidence. The DC Circuit thus reversed and remanded the horizontal and vertical limits to the Commission.

4. The DC Circuit in *Time Warner* further reviewed the Commission's cable attribution rules. Whereas the DC Circuit upheld the Commission's general cable attribution benchmarks, the court vacated two of the Commission's rules. Specifically, the DC Circuit vacated the Commission's elimination of the single majority shareholder exemption, which did not attribute minority interests in any cable company in which a single shareholder held more than 50 percent of the outstanding voting stock. The DC Circuit also vacated the Commission's application of the limited partnership insulation rule, that barred an insulated limited partner from selling video programming to the general partner cable company. The DC Circuit found that the Commission did not provide adequate justification for both actions.

5. The *FNPRM* seeks to implement section 613(f) and to respond to the DC Circuit's concerns, by taking a fresh look at the Commission's cable ownership rules affected by the *Time Warner* decision. The *FNPRM* examines the requirements of Section 613(f) and the underlying legislative history, reviews the relevant markets, as those markets existed in and have evolved since 1992, and considers general regulatory approaches. The *FNPRM* asks commenters to support or contradict these and/or alternative approaches with empirical or theoretical evidence, as well as address the benefits and

harms posed by each approach. The *FNPRM* does not attempt to propose any specific numerical caps and/or mathematical formulations to compute limits. Rather, the objective of the *FNPRM* is to ask the relevant questions and develop a complete record that ultimately will support a regulatory approach, which fully addresses and takes into account cable operators' market power in today's dynamic communications marketplace.

6. With respect to the horizontal limit, the *FNPRM* seeks to implement Section 613(f) by examining the state of competition, and cable operators' market power, in the MVPD marketplace. The *FNPRM* considers two possible regulatory approaches, the open field approach and the threshold/safe harbor approach, as well as invites commenters to suggest alternative approaches. The open field approach, which is the basis for the Commission's horizontal limit reviewed by the D.C. Circuit, restricts market share by capping the size of the largest cable operators to ensure that programming networks have viable alternatives if denied access by large cable operators, individually or collectively. The *FNPRM* asks commenters to address various issues related to the open field approach, such as the level of subscriber reach programming networks needed for viability, the adequacy of a cap in terms of gauging market power, the actual or predictable presence of collusive anti-competitive behavior amongst large cable operators, and the impact of non-cable outlets such as Direct Broadcast Satellite ("DBS"). In contrast, the threshold/safe harbor approach considers the state of effective competition in the MVPD marketplace, and only enforces regulatory ownership limits if it is determined that such competition has not been achieved. The *FNPRM* asks commenters to address various issues related to the threshold/safe harbor approach, such as the appropriate measurement of effective competition and market power in the MVPD industry (both in terms of acquisition "upstream" and distribution "downstream" markets), and the regulatory response if effective competition falters or is not achieved.

7. With respect to the vertical limit, the *FNPRM* seeks to implement section 613(f) by examining significant market trends, such as the increase in channel capacity through the deployment of advanced technologies and system upgrades, the decrease in vertically integrated cable offerings, and the increase in competition from cable and more importantly non-cable sources, such as DBS. The *FNPRM* asks

commenters to address whether these market trends mitigate the congressional concern underlying section 613(f) that cable operators will discriminate against unaffiliated programming networks by favoring affiliated over non-affiliated programming. Specifically, the *FNPRM* asks commenters to address whether current and anticipated market conditions warrant the modification, exemption or the possible elimination of the vertical limit.

8. Finally, the *FNPRM* also considers the Commission's conclusions regarding elimination of the single majority shareholder exemption and the application of the no-sale aspect of the limited partner's insulation criteria and seeks comment regarding these two provisions of the attribution rules. The *FNPRM* seeks to examine the underlying rationale of the Commission's prior conclusions, and to determine if those conclusions are still valid. The *FNPRM* also considers the Commission's elimination of the single majority shareholder exemption in the broadcast and the multipoint distribution service attribution rules, which followed the Commission's elimination of the cable exemption.

Procedural Matters

Ex Parte

9. This proceeding will be treated as a "permit-but-disclose" proceeding, subject to the requirements of § 1.1206(b) of the Commission's rules.

Filing of Comments and Reply Comments

10. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before December 26, 2001, and reply comments on or before January 25, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

11. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If more than multiple docket or rulemaking numbers appear in the caption of this proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail.

To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address.>" A sample form and directions will be sent in reply.

12. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. The Cable Services Bureau contacts for this proceeding are Daniel Hodes, Kiran Duwadi, Ava Holly Berland, and Andrew Wise at (202) 418-7200, TTY (202) 418-7365, or at dhodes@fcc.gov, kduwadi@fcc.gov, hberland@fcc.gov and awise@fcc.gov.

13. Parties who choose to file by paper must also file one copy of each filing with other offices, as follows: (1) Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554; and (2) Ava Holly Berland, Cable Services Bureau, 445 12th Street, SW., 3-A832, Washington, DC, 20554. In addition, five copies of each filing must be filed with Linda Senecal, Cable Services Bureau, 445 12th Street, 3-A729, Washington, DC 20554.

Ordering Clause

14. This *FNPRM* is issued pursuant to authority contained in sections 2(a), 4(i), 303, 307, 309, 310, and 613 of the Communications Act of 1934, as amended.

List of Subjects

47 CFR Parts 21 and 73

Television.

47 CFR Part 76

Cable television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-25479 Filed 10-10-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 579

[Docket No. NHTSA 2001-10773; Notice 1]

RIN 2127-AI26

Reporting of Information About Foreign Safety Recalls and Campaigns Related to Potential Defects

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document requests comments on a proposal to implement the foreign safety recall and safety campaign reporting requirements of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Section 3(a) of the TREAD Act requires a manufacturer of motor vehicles or motor vehicle equipment to report to the National Highway Traffic Safety Administration (NHTSA) whenever it has decided to conduct a safety recall or other safety campaign in a foreign country covering vehicles or equipment that are identical or substantially similar to vehicles or equipment offered for sale in the United States. The manufacturer must also report whenever it has been notified by a foreign government that a safety recall or safety campaign must be conducted covering such vehicles or equipment.

DATES: *Comment closing date:* Comments must be received on or before December 10, 2001. The effective date of a final rule based on this proposal would be 30 days after publication of the final rule.

ADDRESSES: All comments on this notice should refer to the docket and notice number set forth above and be submitted to Docket Management, Room PL-401, 400 Seventh Street, S.W., Washington, DC 20590. The docket room hours are from 9:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jon White, Office of Defects Investigation, NHTSA (phone: 202-366-5226). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (phone: 202-366-5263).

SUPPLEMENTARY INFORMATION:

I. Background

A. Ford's Foreign Campaigns Involving Firestone Tires

On May 2, 2000, NHTSA's Office of Defects Investigation (ODI) opened an investigation into an alleged safety defect in ATX and Wilderness tires manufactured by Bridgestone/Firestone, Inc. (Firestone). Many of these tires had been manufactured for use as original equipment on Ford Explorer sport utility vehicles.

During that investigation, ODI became aware that in August 1999, Ford Motor Company (Ford) commenced an "Owner Notification Program" in which it offered to replace the P255/70R16 Firestone Wilderness AT tires installed as original equipment on its model year (MY) 1995 and 1996 Ford Explorer and Mercury Mountaineer models in use in the Persian Gulf region. In its letter to owners, Ford explained that it was offering to replace the tires because "Firestone 'Wilderness A/T' brand tires may experience interior tire degradation and tread separation, due to unique Gulf Coast usage patterns and environmental conditions, resulting in a loss of vehicle control." Ford did not notify NHTSA that it was taking this action, because, as it explained later, there was no regulation requiring it to do so.

Similarly, late in February 2000, Ford launched an "Owner Notification Program" in Malaysia and Thailand covering "certain 1997 Explorers equipped with P235/75R15 Firestone 'All Terrain' Brand Tires" (Wilderness AT tires). In its letter to owners, Ford claimed it was offering to replace the tires because they "may experience interior degradation and tread separation, due to unique regional usage patterns and environmental conditions, potentially resulting in a loss of vehicle control." As in the case of the Gulf Region vehicles, Ford did not notify NHTSA that it had taken this action until after the agency had opened its investigation covering these tires.

Also, on May 20, 2000, Ford began an "Owner Notification Program" in Venezuela covering MY 1996 through 1999 Explorers equipped with P235/75R15 or P255/70R16 Firestone tires. In its letter to owners, Ford included the same rationale as in the Malaysia/Thailand action. Again, Ford did not notify NHTSA of this action until after it was commenced.

B. Federal Defect Reporting Requirements Before the TREAD Act

Title 49, United States Code, Chapter 301, "Motor Vehicle Safety," is the basic motor vehicle safety statute administered by NHTSA (the "Safety