

contents of any such notification must comply with the requirements of paragraph (c) of this section.

(1) Carriers must wait a 30-day minimum period of time after giving customers notice and an opportunity to opt-out before assuming customer approval to use, disclose, or permit access to CPNI. A carrier may, in its discretion, provide for a longer period. Carriers must notify customers as to the applicable waiting period for a response before approval is assumed.

(i) In the case of an electronic form of notification, the waiting period shall begin to run from the date on which the notification was sent; and

(ii) In the case of notification by mail, the waiting period shall begin to run on the third day following the date that the notification was mailed.

(2) Carriers using the opt-out mechanism must provide notices to their customers every two years.

(3) Telecommunications carriers that use e-mail to provide opt-out notices must comply with the following requirements in addition to the requirements generally applicable to notification:

(i) Carriers must obtain express, verifiable, prior approval from consumers to send notices via e-mail regarding their service in general, or CPNI in particular;

(ii) Carriers must allow customers to reply directly to e-mails containing CPNI notices in order to opt-out;

(iii) Opt-out e-mail notices that are returned to the carrier as undeliverable must be sent to the customer in another form before carriers may consider the customer to have received notice;

(iv) Carriers that use e-mail to send CPNI notices must ensure that the subject line of the message clearly and accurately identifies the subject matter of the e-mail; and

(v) Telecommunications carriers must make available to every customer a method to opt-out that is of no additional cost to the customer and that is available 24 hours a day, seven days a week. Carriers may satisfy this requirement through a combination of methods, so long as all customers have the ability to opt-out at no cost and are able to effectuate that choice whenever they choose.

(e) *Notice Requirements Specific to Opt-In.* A telecommunications carrier may provide notification to obtain opt-in approval through oral, written, or electronic methods. The contents of any such notification must comply with the requirements of paragraph (c) of this section.

(f) *Notice Requirements Specific to One-Time Use of CPNI.* (1) Carriers may

use oral notice to obtain limited, one-time use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regardless of whether carriers use opt-out or opt-in approval based on the nature of the contact.

(2) The contents of any such notification must comply with the requirements of paragraph (c) of this section, except that telecommunications carriers may omit any of the following notice provisions if not relevant to the limited use for which the carrier seeks CPNI:

(i) Carriers need not advise customers that if they have opted-out previously, no action is needed to maintain the opt-out election;

(ii) Carriers need not advise customers that they may share CPNI with their affiliates or third parties and need not name those entities, if the limited CPNI usage will not result in use by, or disclosure to, an affiliate or third party;

(iii) Carriers need not disclose the means by which a customer can deny or withdraw future access to CPNI, so long as carriers explain to customers that the scope of the approval the carrier seeks is limited to one-time use; and

(iv) Carriers may omit disclosure of the precise steps a customer must take in order to grant or deny access to CPNI, as long as the carrier clearly communicates that the customer can deny access to his CPNI for the call.

7. Amend § 64.2009 by revising paragraphs (c) and (d) and by adding paragraph (f) to read as follows:

§ 64.2009 Safeguards required for use of customer proprietary network information.

* * * * *

(c) All carriers shall maintain a record, electronically or in some other manner, of their own and their affiliates' sales and marketing campaigns that use their customers' CPNI. All carriers shall maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as a part of the campaign. Carriers shall retain the record for a minimum of one year.

(d) Telecommunications carriers must establish a supervisory review process regarding carrier compliance with the rules in this subpart for outbound marketing situations and maintain records of carrier compliance for a minimum period of one year. Specifically, sales personnel must obtain supervisory approval of any

proposed outbound marketing request for customer approval.

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(f) Carriers must provide written notice within five business days to the Commission of any instance where the opt-out mechanisms do not work properly, to such a degree that consumers' inability to opt-out is more than an anomaly.

(1) The notice shall be in the form of a letter, and shall include the carrier's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, whether the relevant state commission(s) has been notified and whether it has taken any action, a copy of the notice provided to customers, and contact information.

(2) Such notice must be submitted even if the carrier offers other methods by which consumers may opt-out.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-2099; MM Docket No. 01-62; RM-10053, RM-10109, RM-10110, RM-10111, RM-10112, RM-10113, RM-10114, RM-10116]

Radio Broadcasting Services; Ardmore, Brilliant, Brookwood, Gadsden, Hoover, AL; Linden, McMinnville, TN; Moundville, New Hope, AL; Okolona, MS; Pleasant Grove, AL; Pulaski, TN; Russellville, Scottsboro, Troy, Trussville, Tuscaloosa, AL; Walden, TN and Winfield, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition for rule making in this Proceeding jointly filed by Capstar TX Limited Partnership, Clear Channel Broadcasting Licenses, Inc., and Jacor Licensee of Louisville II, Inc., this document grants multiple channel substitutions and changes of community of license in Alabama, Mississippi and Tennessee. Specifically, this document substitutes Channel 288C2 for Channel 290A at Trussville, Alabama, reallocates Channel 288C2 to Hoover, Alabama, and modifies the Station WENN license to specify operation on Channel 288C2 at Hoover. In order to accommodate the Channel 288C2 allotment at Hoover, this document substitutes Channel 290C3 for

Channel 288A at Tuscaloosa, Alabama, reallocs Channel 290C3 to Brookwood, Alabama, and modifies the Station WRTR license to specify operation on Channel 290C3 at Brookwood. To accommodate Channel 290C3 at Brookwood, this document substitutes Channel 249A for Channel 290A at Winfield, Alabama, and modifies the license of Station WKXM to specify operation on Channel 249A. In order to accommodate Channel 249A at Winfield, it substitutes Channel 278A for Channel 249A at Russellville, Alabama, and modifies the Station WKGL license to specify operation on Channel 278A. In order to accommodate Channel 288C2 at Hoover, this document also substitutes Channel 289C0 for Channel 289C at Troy, Alabama, and modifies the Station WZHT license to specify operation on Channel 289C0. See **SUPPLEMENTARY INFORMATION**.

DATES: Effective October 15, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418-2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Report and Order* in MM Docket No.01-62 adopted August 28, 2002, and released August 30, 2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also 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 e-mail qualixint@aol.com.

This document reallocs Channel 279C1 from Gadsden, Alabama, to Trussville, Alabama, and modifies the Station WQEN license to specify Trussville as its community of license. In order to allot Channel 279C1 to Trussville, Alabama, this document reallocs Channel 280C2 from Columbus,

Mississippi, to Okolona, Mississippi, and modifies the Station WACR license to specify Okolona as its community of license. This document allots Channel 267A to Linden, Tennessee, and Channel 278A to New Hope, Alabama. This document substitutes Channel 279C3 for Channel 280A at McMinnville, Tennessee, reallocs Channel 279C3 to Walden, Tennessee, and modifies the Station WTRZ license to specify operation Walden as its community of license. See 66 FR 14872, March 14, 2001. The reference coordinates for the Channel 288C2 allotment at Hoover, Alabama, are 33-22-41 and 86-48-35. The reference coordinates for the Channel 290C3 allotment at Brookwood, Alabama, are 33-12-36 and 87-24-40. The reference coordinates for the Channel 249A allotment at Winfield, Alabama, are 33-12-36 and 87-24-40. The reference coordinates for the Channel 289C0 allotment at Troy, Alabama, are 31-52-03 and 86-14-58. The reference coordinates for the Channel 280C2 allotment at Okolona, Mississippi, are 33-51-38 and 88-30-44. The reference coordinates for the Channel 258A allotment at Vardaman, Mississippi, are 33-46-13 and 89-15-26. The reference coordinates for the Channel 267A allotment at Linden, Tennessee, are 35-37-47 and 87-45-09. The reference coordinates for the Channel 278A allotment at New Hope, Alabama, are 34-34-50 and 86-25-17. The reference coordinates for the Channel 279C3 allotment at Walden, Tennessee, are 35-14-32 and 85-22-17. The reference coordinates for the Channel 279C1 allotment at Trussville, Alabama, are 33-26-38 and 86-52-47.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.
Part 73 of the Code of Federal Regulations is 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Trussville, Channel 290A and adding Hoover, Channel 288C2.

3. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Gadsden, Channel 279C1 and adding Trussville, Channel 279C1.

4. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 288A at Tuscaloosa and adding Brookwood, Channel 290C3.

5. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 290A and adding Channel 249A at Winfield.

6. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 289C and adding Channel 289C0 at Troy.

7. Section 73.202(b), the Table of FM Allotments, under Alabama, is amended by adding New Hope, Channel 278A.

8. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 280C2 at Columbus and adding Okolona, Channel 280C2.

9. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Vardaman, Channel 258A.

10. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by adding Linden, Channel 267A.

11. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing McMinnville, Channel 280A and adding Walden, Channel 279C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

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