

described in section 707(a) or section 707(c) will not be deemed to be engaged in commercial activities solely because it holds an interest as a limited partner in a limited partnership. Nevertheless, pursuant to sections 875, 882, and 892(a)(2)(A)(i), a foreign government member's distributive share of partnership income will not be exempt from taxation under section 892 to the extent that the partnership derived such income from the conduct of a commercial activity. For example, where a controlled entity described in § 1.892-2T(a)(3) that is not otherwise engaged in commercial activities holds an interest as a limited partner in a limited partnership that is a dealer in stocks, bonds, other securities, commodities, or financial instruments in the United States, although the controlled entity partner will not be deemed to be engaged in commercial activities solely because of its interest in the limited partnership, its distributive share of partnership income derived from the partnership's activity as a dealer will not be exempt from tax under section 892 because it was derived from the conduct of a commercial activity.

(B) *Interest as a limited partner in a limited partnership.* Solely for purposes of paragraph (d)(5)(iii) of this section, an interest in an entity classified as a partnership for federal tax purposes shall be treated as an interest as a limited partner in a limited partnership if the holder of such interest does not have rights to participate in the management and conduct of the partnership's business at any time during the partnership's taxable year under the law of the jurisdiction in which the partnership is organized or under the governing agreement. Rights to participate in the management and conduct of a partnership's business do not include consent rights in the case of extraordinary events such as admission or expulsion of a general or limited partner, amendment of the partnership agreement, dissolution of the partnership, disposition of all or substantially all of the partnership's property outside of the ordinary course of the partnership's activities, merger, or conversion.

(iv) *Illustration.* The following example illustrates the application of this paragraph (d)(5):

*Example 1.* K, a controlled entity of a foreign sovereign, has investments in various stocks and bonds of United States corporations and in a 20% interest in Opco, a limited liability company that is classified as a partnership for federal tax purposes. Under the governing agreement of Opco, K has the authority to participate in the

management and conduct of Opco's business. Opco has investments in various stocks and bonds of United States corporations and also owns and manages an office building in New York. Because K has authority to participate in the management and conduct of Opco's business, its interest in Opco is not a limited partner interest. Therefore, K will be deemed to be engaged in commercial activities because of attribution of Opco's commercial activity, even if K does not actually make management decisions with regard to Opco's commercial activity, the operation of the office building. Accordingly, K is a controlled commercial entity, and all of its income, including its distributive share of partnership income from its interest in Opco and its income from the stocks and bonds it owns directly, will not be exempt from tax under section 892.

*Example 2.* The facts are the same as in *Example 1*, except that Opco has hired a real estate management firm to lease offices and manage the office building. Notwithstanding the fact that an independent contractor is performing the activities, Opco will still be deemed to be engaged in commercial activities. Accordingly, K is a controlled commercial entity, and all of its income, including its distributive share of partnership income from its interest in Opco and its income from the stocks and bonds it owns directly, will not be exempt from tax under section 892.

*Example 3.* The facts are the same as in *Example 1*, except that K is a member that has no right to participate in the management and conduct of Opco's business. Assume further that K is not otherwise engaged in commercial activities. Under paragraph (d)(5)(iii) of this section, Opco's commercial activities will not be attributed to K. Accordingly, K will not be a controlled commercial entity, and its income derived from the stocks and bonds it owns directly and the portion of its distributive share of partnership income from its interest in Opco that is derived from stocks and bonds will be exempt from tax under section 892. The portion of K's distributive share of partnership income from its interest in Opco that is derived from the operation of the office building will not be exempt from tax under section 892 and § 1.892-3T(a)(1).

(e) *Effective/applicability date.* This section applies on the date these regulations are published as final regulations in the **Federal Register**. See § 1.892-5(a) as issued under TD 9012 (August 1, 2002) for rules that apply on or after January 14, 2002, and before the date these regulations are published as final regulations in the **Federal Register**. See § 1.892-5T(a) for rules that apply before January 14, 2002, and § 1.892-5T(b) through (d) for rules that apply before the date these regulations are published as final regulations in the **Federal Register**.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

**Par. 4.** The authority for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**Par. 5.** In § 602.101, paragraph (b) is amended by adding an entry to the table in numerical order to read as follows:

**§ 602.101 OMB Control numbers.**

\* \* \* \* \*  
(b) \* \* \*

CFR part or section where identified and described	Current OMB Control No.
* * * * *	* * * * *
1.892-5 .....	1545-1053
* * * * *	* * * * *

**Steven T. Miller,**  
*Deputy Commissioner for Services and Enforcement.*  
[FR Doc. 2011-28531 Filed 11-2-11; 8:45 am]  
**BILLING CODE 4830-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MB Docket No. 09-115, RM-11543; DA 11-1502]

**Television Broadcasting Services; Fond du Lac, WI**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission denies a petition for reconsideration of an August 12, 2009 Report and Order changing the allotted channel for station WWAZ-TV, Fond du Lac, Wisconsin, from channel 44 to channel 5. The petitioner stated that the staff, in granting the original channel change, cited erroneous loss-of-service figures. The petitioner further argues that the primary technical justification for creation of this loss area was not raised until the reply comment stage, and that the record further does not support the technical justification. The order finds that the staff requested a re-engineered proposal that would result in the replacement translators covering the projected analog loss area. The document finds that the re-engineered translators sufficiently address any loss of service, and further finds that the public interest is served by substituting channel 5 for channel 44 at Fond du Lac

because it permitted WLS-TV, an ABC network affiliate in Chicago, Illinois, to move from its post-transition channel 7 to channel 44, resulting in the restoration of ABC network service to numerous viewers that had lost service after the transition of WLS-TV to digital operations. Finally, the document notes that the petitioner's own engineer had recognized potential technical problems associated with WWAZ-TV's digital operations on channel 44.

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

**FOR FURTHER INFORMATION CONTACT:** David Brown, *david.brown@fcc.gov*, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Memorandum Opinion and Order, MB Docket No. 09-115, adopted September 6, 2011 by the Video Division of the Federal Communications Commission, and released September 8, 2011. For the reasons discussed above, the Federal Communications Commission denies the petition for reconsideration of an order changing the

allotted channel for station WWAZ-TV, Fond du Lac, Wisconsin. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY-B402, Washington, DC 20554, telephone 1-(800) 478-3160 or via email <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not

contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

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