



United States
General Accounting Office
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Office of the General Counsel

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February 11, 1999

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Federal Communications Commission: Direct Broadcast Satellite Public Interest Obligations

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC), entitled "Direct Broadcast Satellite Public Interest Obligations" (MM Docket 93-25; FCC 98-307). We received the rule on December 29, 1998. It was published in the Federal Register as a final rule on February 8, 1999. 64 Fed. Reg. 5951.

The final rule 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 the DBS providers reserve between 4 percent and 7 percent of their channel capacity exclusively for "noncommercial programming of an educational or informational nature."

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FCC complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation

work relating to the Federal Communications Commission is Judy England-Joseph, Director for Housing and Community Development Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Kathleen Fagan
AMD-Performance Evaluation and
Records Management
Federal Communications Commission

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"DIRECT BROADCAST SATELLITE PUBLIC INTEREST OBLIGATIONS"
(MM Docket 93-25; FCC 98-307)

(i) Cost-benefit analysis

The FCC, in its report to our Office, states that it was not required to prepare and did not prepare a cost-benefit analysis of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The FCC prepared an Initial Regulatory Flexibility Analysis in connection with the Notice of Proposed Rulemaking and a Final Regulatory Flexibility Analysis in issuing the final rule.

The analyses comply with the requirements of the Regulatory Flexibility Act, including the number and description of the small entities affected by the rule, the steps taken to minimize the burdens on small entities, and alternatives that were considered. The final analysis finds that the operational DBS licensees are not small entities and it cannot estimate the number of small entities in the remaining non-operational licensees because of a lack of revenue information.

The final analysis concludes that there will be minimal economic impact on small entities because there are only minor recordkeeping burdens imposed.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the FCC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. § 553. On March 2, 1993, the FCC issued a Notice of Proposed Rulemaking

and received 68 comments and 48 reply comments in response to the Notice and a subsequent Public Notice published in 1997.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains a new information collection which is subject to approval by the Office of Management and Budget. The preamble to the final rule contains the information required by the act.

The collection will be used by the FCC to monitor DBS providers' compliance with the public interest obligations. FCC estimates there will be 8 respondents, the average response time will be 12 hours, and the total annual burden will be 96 hours.

Statutory authorization for the rule

The final rule is issued pursuant to the authority of Sections 4, 303, 309, 335, and 634 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 303, 309, 335, and 554.

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order No. 12866.