



G A O

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

B-289584

January 2, 2002

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

The Honorable W. J. "Billy" Tauzin
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: Federal Communications Commission: Broadcast Services; Digital
Television

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, entitled "Broadcast Services; Digital Television" (MM Docket No. 00-39; FCC 01-330). We received the rule on December 17, 2001. It was published in the Federal Register as a final rule on December 18, 2001. 66 Fed. Reg. 65122.

The final rule addresses a number of issues related to the conversion of the nation's broadcast television system from analog to digital television (DTV), including when to require election by licensees of their post-transition DTV channel, whether to require replication by DTV licensees of their NTSC Grade B service contours, whether to require DTV licensees to place enhanced service contours over their principal communities, and how to process mutually exclusive applications.

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 W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is John Anderson, Managing Director, Physical Infrastructure. Mr. Anderson can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Jamila Bess Johnson
Senior Legal Advisor to Bureau Chief
Mass Media Bureau
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
"BROADCAST SERVICES; DIGITAL TELEVISION"
(MM DOCKET NO. 00-39; FCC 01-330)

(i) Cost-benefit analysis

The FCC is not required to prepare and did not prepare a cost-benefit analysis for the final rule.

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

The FCC prepared both an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis in connection with the proposed rule and an earlier Report and Order issued by the Commission. The preamble to the final rule contains a Supplemental Final Regulatory Flexibility Analysis, which complies with the requirements of the Act.

The Analysis includes a discussion of the steps taken to reduce the impact of the final rule, including temporarily deferring the replication protection and channel election deadlines.

(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 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 23, 2000, the FCC published a Notice of Proposed Rulemaking in the Federal Register. 65 Fed. Reg. 15600. The comments received in response to the notice are discussed in the preamble to the final rule.

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

The final rule contains an information collection that is subject to review by the Office of Management and Budget under the Paperwork Reduction Act. The

preamble to the final rule contains the information required by the Act, including an estimate of the annual burden imposed by the collection. The FCC estimates that the “Application for Extension of Time to Construct a Digital Television Broadcast Station” will have 600 respondents with a total annual burden of 400 hours and a cost of \$207,000.

Statutory authorization for the rule

The final rule is promulgated under the authority of sections 1, 4(i), 303, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, and 336(f).

Executive Order No. 12866

As an independent regulatory agency, the FCC is not subject to the review requirements of the order.