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Office of the General Counsel

B-279248

February 25, 1998

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: Reallocation of TV Channels 60-69,  
the 746-806 MHz Band

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 "Reallocation of TV Channels 60-69, the 746-806 MHz Band" (ET Docket No. 97-157; FCC 97-421). We received the rule on February 12, 1998. It was published in the Federal Register as a final rule on February 10, 1998. 63 Fed Reg 6669.

The rule reallocates the current television channels 60-69 (the 746-806 MHz band) for public safety fixed and mobile services (764-776 MHz and 794-806 MHz) on a primary basis and the remaining 36 MHz of channels 60-69 to fixed and mobile commercial services that will be licensed through competitive bidding.

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 Alan Zuckerman, Assistant General Counsel, at (202) 512-4586. The official responsible for GAO

evaluation work relating to the Federal Communications Commission is John Anderson, Director of Transportation Issues. Mr. Anderson can be reached at (202) 512-2834.

Robert P. Murphy  
General Counsel

Enclosure

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

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY  
THE FEDERAL COMMUNICATIONS COMMISSION  
ENTITLED  
"REALLOCATION OF TV CHANNELS 60-69, THE 746-806 MHZ BAND"  
(ET DOCKET NO. 97-157; FCC 97-421)

(i) Cost-benefit analysis

The FCC reports that it was not required to prepare and it did not prepare a cost-benefit analysis of the 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 rulemaking.

The analyses describe the reason for the rule, the legal basis for it, and include descriptions of the number of small entities, including small governmental entities, affected by the rule. The analyses further note that there are no recordkeeping, reporting, or other compliance requirements mandated by the rule.

(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

The Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat. 251 § 3004 (1997), requires the FCC, not later than January 1, 1998, to reallocate 24 MHz in the 746-806 MHz band for public safety purposes and to reallocate the remaining 36 MHz in the band for commercial use to be allocated by competitive bidding.

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 July 31, 1997, the FCC published a notice of proposed

rulemaking in the Federal Register. 62 Fed. Reg. 41012. Comments were received and considered and the final rule was adopted without substantial changes.

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

The final rule contains no information collection requirements.

Statutory authorization for the rule

The FCC promulgated the rule pursuant to the authority in Sections 4(i), 303(c), 303(f), 303(g), 303(r), and 337(a) of the Communications Act of 1934 as amended, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), 303(r), and 337(a), and the Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat. 251 § 3004 (1997).

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order 12866.