

• The *Third Report and Order* eliminated the minority control allowance. This allowance was designed to permit a cable operator to have ownership interests in up to 35% of the market if 5% of its systems were controlled by minorities. However, given that no parties have used this allowance or have argued that they will use the allowance, the allowance was eliminated.

• The *Third Report and Order* denied a motion to lift the Commission's stay of the horizontal ownership rule pending consideration by the United States Court of Appeals for the District of Columbia Circuit on challenges to Section 613(f)(1)(A) of the Communications Act, as amended, and the horizontal ownership rule. The Commission had decided that affected parties must comply with the horizontal rule within 60 days of the court's issuance of a mandate upholding Section 613(f)(1)(A) and the rules. In the *Third Report and Order*, the Commission found that 60 days was an unduly burdensome time frame for affected parties to dispose of property to comply with the newly effective rules. The Commission decided that the horizontal ownership rules would become effective immediately upon the court's issuance of a mandate upholding the statute and the rules and that parties in violation of the rules on that date would have 180 days to comply with the rules.

Ordering Clauses

3. Accordingly, pursuant to Sections 4(i), 303 and 613 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303 and 533, the amendments to 47 CFR 76.503 discussed in this Third Report and Order *Are adopted*. These amendments shall become effective 70 days after publication in the **Federal Register**, following OMB approval, unless a notice is published in the **Federal Register** stating otherwise.

4. The August 17, 1999 Consumers Union, Consumer Federation of America, and Media Access Project's Motion to Vacate Stay of Enforcement of Horizontal Ownership Limits and other requested relief *Is denied* in its entirety.

5. 47 CFR 503(a) through (f) *is Stayed* until the United States Court of Appeals for the District of Columbia Circuit issues a decision upholding Section 613(f)(1)(A) of the Communications Act, as amended, 47 U.S.C. 533(f)(1)(A), and 47 CFR 76.503, and affected parties in violation of 47 CFR 503(a) through (f) will come into compliance within one hundred and eighty (180) days after the court issues its mandate.

6. Parties shall continue to comply with the reporting requirements of Section 503 of our rules, as modified by 47 CFR 76.503(g) and as discussed in note 10 of the *Third Report and Order*.

7. The Commission's Office of Public Affairs, Reference Operations Division, *Shall Send* a copy of this Third Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96-354, 94 Stat. 1164, 5 U.S.C.A. 601 *et seq.*

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable television, Equal employment opportunity, Political candidates, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.503 is revised to read as follows:

§ 76.503 National subscriber limits.

(a) Subject to paragraph (b) of this section, no cable operator shall serve more than 30% of all multichannel-video programming subscribers nationwide through multichannel video programming distributors owned by such operator or in which such cable operator holds an attributable interest.

(b) Cable subscribers that a cable operator does not serve through incumbent cable franchises shall be excluded from the cable operator's limit.

(c) For purposes of this section, "incumbent cable franchise" means a cable franchise in existence as of October 20, 1999 and all successors in interest to these franchises.

(d) Subscribers that a cable operator serves through incumbent cable franchises shall include all subscribers served by those incumbent cable franchises, regardless of when the

subscribers were added to the incumbent cable franchise system.

(e) "Multichannel video-programming subscribers" means subscribers who receive multichannel video-programming from cable systems, direct broadcast satellite services, direct-to-home satellite services, multichannel multipoint distribution services, local multipoint distribution services, satellite master antenna television services (as defined in § 76.5(a)(2)), and open video systems.

(f) "Cable operator" means any person or entity that owns or has an attributable interest in an incumbent cable franchise.

(g) Prior to acquiring additional multichannel video-programming providers, any cable operator that serves 20% or more of multichannel video-programming subscribers nationwide shall certify to the Commission, concurrent with its applications to the Commission for transfer of licenses at issue in the acquisition, that no violation of the national subscriber limits prescribed in this section will occur as a result of such acquisition.

Note 1 to Section 76.503: Certifications made under this section shall be sent to the attention of the Cable Services Bureau, Federal Communications Commission, 445 Twelfth Street, SW, Washington, DC 20554.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[FCC 99-138—PR Docket No. 92-235]

Private Land Mobile Radio Services; Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Radio Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Preamble correction and correcting amendment.

SUMMARY: This document contains corrections to the final rule published in the **Federal Register** on September 16, 1999 (64 FR 50257). The rules relate to trunking of radio channels in the shared Private Land Mobile Radio bands below 512 MHz.

DATES: Effective December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Michael J. Wilhelm, 202-418-0870 (not a toll-free call) or mwilhelm@fcc.gov.

SUPPLEMENTARY INFORMATION:

Background

The final rules that are the subject of this correction amended 47 CFR 90.187 and affect the procedures to be followed by Private Land Mobile Radio applicants who propose the use of trunked radio facilities.

Need for Correction

As published, the final rule, omitted a reference to paragraph (b)(2)(iii). In addition, the DATES section of the preamble contained a typographical error.

List of Subjects in 47 CFR Part 90

Private land mobile radio services.
On page 50257, in the third column, in the DATES section, the reference to

“§ 90.187(b)(2)(b)” is corrected to read “§ 90.187(b)(2)(v)”.

Accordingly, 47 CFR Part 90 is corrected by making the following correcting amendment:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 251–2, 303, 309 and 332, 48 Stat. 1066, 1062, as amended; 47 USC 154, 251–2, 303, 309 and 332 unless otherwise noted.

2. Revise § 90.187(b)(2) introductory text to read as follows:

§ 90.187 Trunking in the bands between 150 and 512 Mhz.

* * * * *

(b) * * *

(2) Trunking will be permitted on frequencies where an applicant or licensee does not have an exclusive service area provided that all frequency coordination requirements are complied with and written consent is obtained from affected licensees using either the procedure set forth in (b)(2)(i) and (b)(2)(ii) of this section (mileage separation) or the procedure set forth in (b)(2)(iii) (protected contours).

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Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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