

First Report and Order adopted several measures designed to promote competition in the advanced services markets. The intended effect was to remove barriers to competition so that competing providers are able to compete effectively with incumbent local exchange carriers (LECs) and their affiliates in the provision of advanced services. An additional effect of the First Report and Order was to ensure that incumbent LECs are able to make their decisions to invest in, and deploy, advanced telecommunications services based on market demand and their own strategic business plans, rather than on regulatory requirements.

EFFECTIVE DATE: The amendments to 47 CFR 51.321(f) and (h) and 51.323(b) and (i)(3) published at 64 FR 23229 (April 30, 1999) are effective on May 13, 1999.

FOR FURTHER INFORMATION CONTACT: Staci Pies, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418-1580 or via the Internet at spies@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202-418-0484. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: On March 18, 1999, the Commission adopted a report and order revising its local competition rules in order to promote competition in the advanced services markets, a summary of which was published in the **Federal Register**. See 63 FR 23229, April 30, 1999. Sections 51.321(f) and (h) and 51.323(b) and (i)(3) of these rules contain new and modified information collection requirements. We stated that "the information collection requirements adopted in this Report and Order will become effective following Office of Management and Budget (OMB) approval. The Commission will publish a document at a later date establishing the effective date." The information collections were approved by OMB on May 13, 1999. See OMB 3060-0848. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules.

List of Subjects in 47 CFR Part 51

Communications common carriers, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 99-13912 Filed 6-1-99; 8:45 am]

BILLING CODE 8010-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 97-80; FCC 99-95]

Commercial Availability of Navigation Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document implements rules to achieve commercial availability of set top boxes and other consumer equipment used to receive video signals and other services. Section 629 of the Communications Act directed the FCC to create rules that allow consumers to obtain set top boxes from commercial sources other than their multichannel video programming distributor.

DATES: Effective July 2, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas Horan, Cable Services Bureau, (202) 418-7200.

SUPPLEMENTARY INFORMATION:

1. The *Order on Reconsideration* addresses the petitions seeking reconsideration of decisions in the *Report and Order* in CS Docket No. 97-80, 63 FR 38089 (July 15, 1999). The *Report and Order* adopted rules to implement Section 629 of the Communications Act of 1934, as amended, 47 U.S.C. 549.

2. Section 629 instructs the FCC to promote the commercial availability to consumers of navigation devices, that is, equipment used to access multichannel video programming and other services offered over multichannel video programming systems. In the *Report and Order*, the FCC adopted rules to implement Section 629. Five petitions requesting reconsideration or clarification of the rules were filed.

3. Application of Rules to Analog Equipment. On reconsideration, the Commission will defer application of the requirement that multichannel video programming distributors (MVPDs) provide a separation of security from equipment that performs other functions for devices that (1) employ only an analog conditional access mechanism; (2) are capable only of providing access to analog video programming offered over an MVPD system and (3) do not provide access to any digital transmission of MVPD programming or any other digital service through any receiving, decoding, conditional access, or other function, including any

conversion of digital programming or services to an analog format.

4. Integrated Boxes. The Commission will maintain the prohibition on MVPDs providing new integrated equipment combining both security and non-security functions after January 1, 2005. In the year 2000, once non-integrated equipment is available, the Commission will assess the state of the market to determine whether the designated time frame is appropriate.

5. Application of Rules to Various MVPDs. The Commission reiterates its view that there is justification for not applying the rule requiring separation of security functions to MVPDs that support navigation devices that are portable throughout the continental United States, and are available from retail outlets and other vendors. Similarly, operators of open video systems are exempt from the requirements of Section 629.

6. CableLabs Standards Process. The Commission expects that the standards developed by CableLabs through the OpenCable process will be sufficient for manufacturers and designers unaffiliated with MVPDs to build devices that can be sold through national retail distribution. The Commission will continue to monitor the OpenCable project to ensure that the standards are specific enough and that a wide range of interests continue to have an opportunity to participate in OpenCable.

7. Wireless Cable Antennas and Downconverters. The Commission finds that equipment used to access wireless cable service cannot be excluded from the definition of navigation devices in all circumstances, nor is a separate demarcation point for attachment of navigation devices required.

8. Permitted Functions of Separated Conditional Access Equipment. The *Order on Reconsideration* clarifies that the components of the security module should closely be related to the security functions of the navigation device, and enhance, rather than assume, a function of the host device.

9. Interface Information. The *Order on Reconsideration* clarifies that 47 CFR 76.1205 requires the release of information sufficient to allow for interaction between the multichannel video programming system and the navigation device through the separated security device. This information must allow manufacturers and retailers the ability to provide compatible equipment. Problems regarding development of interface specifications brought to the Commission attention will be addressed in the review in 2000.

Final Regulatory Flexibility Analysis

10. As required by the Regulatory Flexibility Act (RFA), the Commission included a Final Regulatory Flexibility Analysis (FRFA) in the *Report and Order*. While no petitioners seeking reconsideration of the *Report and Order* raised issues directly related to the FRFA, the Commission is amending the rules in a manner that may affect small entities. Accordingly, this Supplemental Regulatory Flexibility Analysis ("Supplemental FRFA") addresses those amendments and conforms to the RFA.

11. Need for Action and Objectives of the Rules. The 1996 Act added a new Section 629 to the Communications Act of 1934, as amended, that requires the Commission to develop rules to assure competitive availability of navigation devices used in conjunction with MVPD. The statutory objective of Section 629 is assure that navigation devices used by consumers to access a particular MVPD's programming are available to consumers from manufactures, retailers and other vendors not affiliated with that MVPD.

12. Summary of Significant Issues Regarding FRFA Raised in Petitions for Reconsideration. No parties address the FRFA in their petitions for reconsideration, or any subsequent filings.

13. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that might be affected by the rules here adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. Under the Small Business Act, a small business concern is one which: (a) is independently owned and operated; (b) is not dominant in its field of operation; and (c) satisfies any additional criteria established by the SA.

14. As noted, a FRFA was incorporated into the *Report and Order*. In that analysis, the Commission described in detail the various small business entities that may be affected by these rules. Those entities consist of cable systems, multipoint multichannel distribution systems, direct broadcast satellites, home satellite dish, satellite master antenna television, local multipoint distribution systems, small manufacturers, electronic equipment manufacturers, computer

manufacturers, and small retailers. In this present *Order on Reconsideration*, the Commission addresses petitions for reconsideration filed in response to the *Report and Order*. In this Supplemental FRFA, the Commission incorporates by reference the description and estimate of the number of small entities from the FRFA in this proceeding.

15. Description of Reporting, Recordkeeping and Other Compliance Requirements. The rules adopted in the *Report and Order* require MVPDs to make available upon request technical information concerning interface parameters. The Commission believes, however, that this requirement would not necessitate any additional professional, engineering, or customer service skills beyond those already utilized in the ordinary course of business by MVPDs. The rules adopted on reconsideration do not affect this requirement.

16. Steps Taken to Minimize Significant Economic Impact On Small Entities and Significant Alternatives Considered. In the *Report and Order*, the Commission stated the belief that its rules, implemented to assure commercial availability of navigation devices, would have the result of opening up to small retailers the market to sell or lease navigation devices to MVPD subscribers. The rules also consider situations and offer relief where the commercial availability of navigation devices performing conditional access functions could adversely impact an MVPD. An MVPD is not subject to the rules requiring the commercial availability of navigation devices if: (1) it is not reasonably feasible to separate conditional access functions from other functions; or (2) it is not reasonably feasible to prevent the unauthorized reception of service by subscribers using navigation devices obtained from other sources. In the *Order on Reconsideration*, an additional subpart of a rule is adopted to defer the requirement that an MVPD offer equipment that incorporates only the conditional access functions of device if a navigation device (1) employs conditional access mechanisms only to access analog video programming; (2) is capable only of providing access to analog video programming offered over a multichannel video programming distribution system; and (3) does not provide access to any digital transmission of multichannel video programming or any other digital service through any receiving, decoding, conditional access, or other function, including any conversion of digital programming or service to an analog format. The deferral of analog boxes at

this time is to allow the market participants to focus on digital devices.

17. It is ordered that the Petitions for Reconsideration filed by the Consumer Electronics Manufacturers Association, the National Cable Television Association, the Telecommunication Industry Association, Time Warner Entertainment Company L.P., and the Wireless Cable Association International, Inc. are granted to the extent discussed herein, and are otherwise denied.

18. It is ordered that, pursuant to authority found in sections 4(i), 303(r) and 629 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 549, the Commission's rules are hereby amended as set forth below.

19. It is further ordered that the rules as amended shall become effective upon July 2, 1999.

20. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable television.

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 76.1204 is amended by adding paragraph (f) to read as follows:

§ 76.1204 Availability of equipment performing conditional access or security functions.

* * * * *

(f) Paragraphs (a)(1), (b), and (c) of this section shall not apply to the provision of any navigation device that:

(1) Employs conditional access mechanisms only to access analog video programming;

(2) Is capable only of providing access to analog video programming offered over a multichannel video programming distribution system; and

(3) Does not provide access to any digital transmission of multichannel video programming or any other digital service through any receiving, decoding, conditional access, or other function, including any conversion of digital programming or service to an analog format.

[FR Doc. 99-13915 Filed 6-1-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-299]

Organization and Delegation of Powers and Duties; Delegation to the Commandant, United States Coast Guard

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation is delegating to the Commandant, United States Coast Guard, authority to implement and enforce measures to reduce the likelihood of collisions between ships and right whales.

EFFECTIVE DATE: June 2, 1999.

FOR FURTHER INFORMATION CONTACT: Blane Workie, Office of the General Counsel, C-50, (202) 366-4723, Department of Transportation, 400

Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Coast Guard Authorization Act of 1998, (Pub. L. 105-383) Section 313 amends the Ports and Waterways Act (codified at 33 U.S.C. 1230) to authorize the Secretary, as Secretary of the Department in which the Coast Guard is operating, in cooperation with the International Maritime Organization (IMO), to implement and enforce two mandatory ship reporting systems in designated areas. The Secretary is delegating this authority to the Commandant of the Coast Guard. These reporting systems will be implemented internationally, in cooperation with the IMO, to reduce the likelihood of collisions between ships and right whales by dissemination of information to mariners through a variety of means. Right whales are the most endangered of the big whales. With the dwindling number of right whale sightings in U.S. waters, scientists are worried about the future of the endangered species. We publish this rule as a final rule effective on the date of publication. Since this amendment relates to the departmental organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 553(b). Furthermore, since this amendment expedites the Coast Guard's ability to meet the needs of its conservation and enforcement obligations, the Secretary finds good cause, under 5 U.S.C. 553(b) and 5 U.S.C. 553(d) (3), that notice and public

comment on the rule are unnecessary and that this rule should be made effective on the date of publication.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; Pub. L. 101-552, 28 U.S.C. 2672, 31 U.S.C. 3711 (a)(2).

2. In § 1.46, paragraph (rrr) is added to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(rrr) Implement and enforce two mandatory ship reporting systems, in cooperation with the International Maritime Organization, pursuant to the Coast Guard Authorization Act of 1998, (Pub. L. 105-383), section 313, codified at 33 U.S.C. 1230(d).

Issued in Washington, DC this 24th day of May, 1999.

Rodney E. Slater,

Department of Transportation.

[FR Doc. 99-13897 Filed 6-1-99; 8:45 am]

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