

Legal Services Corporation, 750 First Street NE, Washington, DC 20002-4250; (202) 336-8800.

**SUPPLEMENTARY INFORMATION:** Section 1007(a)(2) of the Legal Services Corporation Act ("Act"), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Poverty Guidelines. The revised figures for 2000 set out below are equivalent to 125% of the current Poverty Guidelines as published on February 15, 2000 (65 FR 7555-57).

#### List of Subjects in 45 CFR Part 1611

Legal services.

For reasons set out in the preamble, 45 CFR part 1611 is amended as follows:

#### PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

**Authority:** Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

#### Appendix A of Part 1611—Legal Services Corporation 2000 Poverty Guideline<sup>1</sup>

Size of family unit	48 contiguous states <sup>2</sup>	Alaska <sup>3</sup>	Hawaii <sup>4</sup>
1 .....	\$10,438	\$13,038	\$11,988
2 .....	14,063	17,575	16,163
3 .....	17,688	22,113	20,338
4 .....	21,313	26,650	24,513
5 .....	24,938	31,188	28,688
6 .....	28,563	35,725	32,863
7 .....	32,188	40,263	37,038
8 .....	35,813	44,800	41,213

<sup>1</sup> The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.

<sup>2</sup> For family units with more than eight members, add \$3,625 for each additional member in a family.

<sup>3</sup> For family units with more than eight members, add \$4,538 for each additional member in a family.

<sup>4</sup> For family units with more than eight members, add \$4,175 for each additional member in a family.

Dated: February 23, 2000.

**Victor M. Fortuno,**

*Vice President for Legal Affairs, General Counsel & Corporate Secretary.*

[FR Doc. 00-4803 Filed 2-28-00; 8:45 am]

**BILLING CODE 7050-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[FCC 00-22]

### Implementation of the Satellite Home Viewer Improvement Act of 1999; Enforcement Procedures for Retransmission Consent Violations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; procedures.

**SUMMARY:** This document adopts procedural rules to implement certain aspects of the Satellite Home Viewer Improvement Act of 1999, which was enacted on November 29, 1999. Among other things, the act authorizes satellite carriers to add more local and national broadcast programming to their offerings and seeks to place satellite carriers on an equal footing with cable operators with respect to availability of broadcast programming. This document discusses specifically the implementation of regulations that would apply enforcement procedures for retransmission consent violations.

**DATES:** Effective May 30, 2000, except for § 1.6010 which contains information collection requirements that are not effective until approved by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing the effective date of § 1.6010. Written comments by the public on the new and/or modified information collections are due May 1, 2000.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington DC 20554, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** Eloise Gore at (202) 418-7200 or via the Internet at [egore@fcc.gov](mailto:egore@fcc.gov). For additional information concerning the information collection(s) contained in this document, contact Judy Boley at (202)

418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order ("Order"), FCC 00-22, adopted January 27, 2000; released January 28, 2000. The full text of the Commission's Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257) at its headquarters, 445 12th Street, SW, Washington, D.C. 20554, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, D.C. 20036, or may be reviewed via Internet at <http://www.fcc.gov/csb/>.

#### Synopsis of the Order

#### I. Introduction

1. In this order, we adopt procedural rules to implement new Section 325(e) of the Communications Act of 1934, as amended, added by Section 1009 of the Satellite Home Viewer Improvement Act ("SHVIA"). Section 325(e) provides the procedures by which the Commission shall process complaints by television broadcast stations alleging that a satellite carrier has retransmitted local television signals without the stations' consent in violation of Section 325(b)(1) of the Act, as amended by the SHVIA.

#### II. Background

2. Section 1009 of SHVIA amends Section 325(b)(1) of the Communications Act to provide, inter alia, that satellite carriers may not retransmit the signal of a broadcast station, or any part thereof, except: (1) With the express authority of the originating station; or (2) if the station has asserted must carry rights under Section 338. Section 1009 further provides that, pursuant to Section 325(b)(2), retransmission consent is not required for satellite retransmission of noncommercial stations; certain superstations under specified circumstances; and, until December 31, 2004, network stations retransmitted outside the station's local market to "unserved" households. In addition, for six months following enactment of the SHVIA, retransmission consent is not required for satellite retransmission of a local station within the station's local market. After the conclusion of this six month period, satellite carriers will be required to obtain retransmission consent to carry these local-into-local retransmissions.

3. Section 1009 also adds a new paragraph (e) to Section 325 of the Communications Act. New paragraph 325(e) creates a set of expedited

enforcement procedures for the alleged retransmission of a television broadcast station in its own local market without the station's consent in violation of Section 325(b)(1). The new provision requires that a final Commission decision be issued in response to such complaints within 45 days. The statute sets out explicit procedures for these complaints, which will take effect on May 30, 2000. The expedited enforcement provision contains a sunset date which precludes the filing of any complaint with the Commission under this section after December 31, 2001.

### III. Discussion

4. These procedural rules track the statutory requirements and incorporate two additional provisions designed to facilitate enforcement of the statutory requirements. Section 325(e) of the statute specifies that the procedures apply to a complaint by a television broadcast station alleging retransmission of its signal "to any person in the local market of such station" \* \* \* "after the expiration of the 6-month period." Section 325(e)(1)(A) through (F) of the statute further requires that the station provide its name, address and call letters; the name and address of the satellite carrier; the dates on which the retransmission allegedly occurred; the street address of at least one person in the local market to whom the retransmission was allegedly made; a statement that the retransmission was not authorized; and the name and address of the station's legal counsel. Section 325(e)(2) of the statute provides that the satellite carrier is deemed to have designated the Secretary of the Commission as its agent for service of process and allows the station to serve the satellite carrier with the complaint by filing with the Commission and serving a copy on the satellite carrier by specified means. Section 325(e)(3) of the statute requires the satellite carrier to file an answer with the Commission within five business days. Section 325(e)(4) of the statute enumerates the exclusive defenses that are available to a satellite carrier: (1) That the satellite carrier did not retransmit the station to any person in the local market during the specified time; (2) that the station had expressly authorized retransmission in writing; (3) that the retransmission was made after January 1, 2002 and the station had elected to assert a right to carriage; and (4) the station being retransmitted is a noncommercial station. Section 325(e)(5) and (6) of the statute provides that the retransmission of a particular station on a particular day to one or more persons constitutes a separate violation

and places the burden of proof on the station to establish that the satellite carrier retransmitted the station to at least one person on the day alleged. Section 325(e)(5) and (6) of the statute further provides that the satellite carrier has the burden of proof with respect to defenses 2, 3, and 4, as enumerated, above. Section 325(e)(8) of the statute requires the Commission to determine whether the satellite carrier in question has retransmitted the station to at least one person in the station's local market and has not proven one of the defenses. If the Commission so determines, it must make a finding and issue a cease and desist order within 45 days after the filing of the complaint.

5. The first additional provision incorporated in the rules requires each satellite carrier to provide the Commission's Secretary with current identifying information about its chief executive officer. This provision will facilitate service of complaints on satellite carriers in an expeditious manner within the statutorily mandated timeframe. The second additional provision requires that, to facilitate Commission oversight of remedial measures, satellite carriers found to have violated the statute must file a report regarding their remedial efforts to come into compliance. This latter provision is needed to enable the Commission to quickly determine that the satellite carrier is complying and may therefore resume authorized retransmissions.

6. The local retransmission consent complaints filed under Section 325(e) will be handled by the Cable Services Bureau.

### IV. Paperwork Reduction Act

7. This Order contains new information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collections contained in this proceeding. Comments should address: (a) Whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden of estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques and

other forms of information technology. Written comments by the public on the new information collections are due May 1, 2000. In addition to filing comments with the Office of the Secretary, commenters should submit a copy of any comments on the information collections contained herein to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

*OMB Control Number:* 3060-xxxx.

*Title:* Implementation of the Satellite Home Viewer Improvement Act of 1999; Enforcement Procedures for Retransmission Consent Violations.

*Type of Review:* New collection or revision of existing collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* Satellite carriers—xxxx.

*Estimated Time Per Response:* xxxx hours.

*Total Annual Burden:* xxxx.

*Total Annual Costs:* xxxx.

*Needs and Uses:* Congress directed the Commission to adopt regulations that enforce procedures for retransmission consent violations to satellite carriers pursuant to the changes outlined in the Satellite Home Viewer Improvement Act of 1999. The availability of such information will serve the purpose of informing the public of the method of broadcast signal carriage.

### V. Ordering Clause

8. Accordingly, pursuant to Section 1009 of the Satellite Home Viewer Improvement Act of 1999, codified as Section 325(e) of the Communications Act of 1934, as amended, 47 U.S.C. 325(e), part 1.6000, *et seq.*, IS ADDED, as set forth in the Rules Appendix. The rules will become effective May 30, 2000, except for 47 CFR 1.6010, which contain information collection requirements that are not effective until approved by the Office of Management and Budget. Notice and comment is not required by the Administrative Procedure Act because the rules are procedural. 5 U.S.C. 553(b)(A). In any event, because of the 60-day statutory deadline and the ministerial nature of the rules implementing the statutory requirements, we find for good cause that notice and comment is impracticable under 5 U.S.C. 553(b)(B).

Federal Communications Commission.  
**Magalie Roman Salas,**  
*Secretary.*

### List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Federal Communications Commission, Reporting and recordkeeping requirements, Television.

### Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is amended to read as follows:

### PART 1—PRACTICE AND PROCEDURE.

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

**Authority:** 47 U.S.C. 325(e).

2. Subpart U of part 1 is added to read as follows:

#### Subpart U—Implementation of Section 325(e) of the Communications Act: Procedures Governing Complaints Filed by Television Broadcast Stations Against Satellite Carriers for Retransmission Without Consent

- 1.6000 Purpose.
- 1.6001 Retransmission consent complaint procedures.
- 1.6002 Form and content.
- 1.6003 Service requirements.
- 1.6004 Answers.
- 1.6005 Exclusive defenses.
- 1.6006 Counting of violations.
- 1.6007 Burden of proof.
- 1.6008 Determinations.
- 1.6009 Relief.
- 1.6010 Reporting of remedial measures.
- 1.6011 Effective date.
- 1.6012 Sunset provisions.

#### **§ 1.6000 Purpose.**

The purpose of part 1, Subpart U, is to implement Section 325(e) of the Communications Act of 1934, as amended, 47 U.S.C. 325(e), *et seq.*, as added by section 1009 of the Satellite Home Viewer Improvement Act of 1999, Public Law 106–113, section 1000(9), 113 Stat. 1501, Appendix I (1999). The procedures set forth in this subpart supersede 47 U.S.C. 312.

#### **§ 1.6001 Retransmission consent complaint procedures.**

*By whom.* If a television broadcast station believes that a satellite carrier has retransmitted its broadcast station's signal to any person in the local market of such station in violation of 47 U.S.C. 325 (b)(1), the station may file a complaint with the Commission under this section.

#### **§ 1.6002 Form and content.**

(a) The following format shall be used for complaints of this type:

Before the Federal Communications Commission

Washington, D.C. 20554

In the Matter of Complainant,  
 v.  
 Defendant  
 File No. (to be inserted by the staff)

#### *Complaint*

To: The Commission.

The complainant (here insert the name, address, and call letters of the complaining television broadcast station) avers that: On (here insert the dates upon which the alleged transmission occurred), retransmission of the broadcast television station's signal was made by (insert here name and address of the satellite carrier) to (here insert the street address of at least one person in the local market of the station to whom the alleged retransmission was made). The complainant avers that (here insert a statement that the retransmission was not expressly authorized by the television broadcast station), and requests that the appropriate relief be granted by the Commission, as provided by the pertinent provisions of the Communications Act of 1934, as amended, and the Commission's Rules.

Date:  
 (here insert the name and address of counsel for the complaining station).

(b) A complaint lacking any of the foregoing information shall be dismissed by the FCC without prejudice to the complaining station.

(c) Additional information may be provided, and, where applicable, should conform to the requirements set forth in §§ 1.48 through 1.52 of the Commission's rules.

#### **§ 1.6003 Service requirements.**

(a) *General.* Pursuant to 47 U.S.C. 325(e), for purposes of any proceeding under this subsection, any satellite carrier that retransmits the signal of any broadcast station shall be deemed to designate the Secretary of the Commission as its agent for service of process.

(b) *Specific.* (1) A television broadcast station shall serve a satellite carrier with a complaint concerning an alleged violation of 47 U.S.C. 325(b)(1) by filing the original and two copies of the complaint on the Secretary of the Commission and serving a copy of the complaint by means of two commonly used overnight delivery services, each addressed to the chief executive officer of the satellite carrier at its principal place of business and each marked "URGENT LITIGATION MATTER" on the outer packaging. Service shall be deemed complete one business day after a copy of the complaint is provided to the delivery services for overnight delivery. On receipt of a complaint filed by a television broadcast station under this subsection, the Secretary of the

Commission shall send the original complaint by United States mail, postage prepaid, receipt requested, addressed to the chief executive officer of the satellite carrier at its principal place of business.

(2) Satellite carriers shall provide the name, address, and telephone number (including area code) of their chief executive officers to the Secretary of the Commission, no later than April 15, 2000. Satellite carriers shall update this information, as necessary, in the event that the identity or the address of their respective chief executive officers changes. These updates shall be made by United States mail within seven (7) days of such changes. Complaints sent to the last known address shall be deemed served if the satellite carrier fails to notify the Secretary of the Commission in accordance with this provision.

#### **§ 1.6004 Answers.**

Within five (5) business days after the date of service, without regard to § 1.4 of this part, the satellite carrier shall file its answer with the Commission, and shall contemporaneously serve the answer upon counsel designated in the complaint, at the address listed for such counsel in the complaint. Service of the answer shall be made by use of one commonly used overnight delivery service and by the United States mail.

#### **§ 1.6005 Exclusive defenses.**

(a) The defenses listed in paragraphs (a)(1) through (a)(4) of this section, are the only defenses available to a satellite carrier against which a complaint under this section is filed.

(1) The satellite carrier did not retransmit the television broadcast station's signal to any person in the "local market" of the television broadcast station, as that term is defined in 17 U.S.C. 122(j) (Designated Market Area as determined by Nielsen Media Research and county containing the station's community of license), during the time period specified in the complaint;

(2) The television broadcast station had, in a writing signed by an officer of the television broadcast station, expressly authorized the retransmission of the station by the satellite carrier to each person in the "local market" of the television broadcast station, as that term is defined in 17 U.S.C. 122(j), to which the satellite carrier made such retransmissions for the entire time period during which it is alleged that a

violation of 47 U.S.C. 325 (b)(1) has occurred;

(3) The retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under 47 U.S.C. 338 as against the satellite carrier for the relevant period; or

(4) The television broadcast station whose signal is being retransmitted is a noncommercial television broadcast station.

(b) [Reserved]

#### **§ 1.6006 Counting of violations.**

Each day of retransmission without consent of a particular television broadcast station to one or more persons in the local market of the station shall be considered a separate violation of 47 U.S.C. 325(b)(1).

#### **§ 1.6007 Burden of proof.**

With respect to each alleged violation, the burden of proof shall be on a television broadcast station to establish that the satellite carrier retransmitted the station to at least one person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under § 1.6005(a)(1).

#### **§ 1.6008 Determinations.**

(a) *In General.* Within forty five (45) days after the filing of a complaint, the Commission shall issue a final determination in any proceeding brought under this subsection. The Commission's final determination shall specify the number of violations committed by the satellite carrier. The Commission shall hear witnesses only if it clearly appears, based on the written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on the written filings by the parties.

(b) *Discovery.* The Commission may direct the parties to exchange pertinent documents, and if necessary, to take prehearing depositions, on such schedule as the Commission may approve, but only if the Commission first determines that such discovery is necessary to resolve a genuine dispute about material facts, consistent with the obligation to make a final determination within forty five (45) days. In this connection, the Commission may utilize the discovery or other evidentiary procedures set forth in §§ 1.311 through 1.364 of the Commission's rules.

#### **§ 1.6009 Relief.**

If the Commission determines that a satellite carrier has retransmitted the

television broadcast station to at least one person in the local market of such station and has failed to meet its burden of proving one of the defenses under § 1.6005 (a)(2) through (a)(4) with respect to such retransmission, the Commission shall:

(a) Make a finding that the satellite carrier violated 47 U.S.C. 325(b)(1) with respect to that station; and

(b) Issue an order, within forty-five (45) days after the filing of the complaint, containing—

(1) A cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with 47 U.S.C. 325(b)(1) with respect to such station;

(2) If the satellite carrier is found to have violated 47 U.S.C. 325(b)(1) with respect to more than two television broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local market of the stations identified in the cease-and-desist order, until such time as the Commission, after giving notice to the station, determines that the satellite carrier is in compliance with 47 U.S.C. 325(b)(1) with respect to such stations; and

(3) An award to the complainant of that complainant's costs and reasonable attorney's fees. Such award shall be made only after the complainant submits appropriate documentation in support of its request.

(c) Any cease-and-desist order issued hereunder shall include a statement of findings and the grounds therefor, shall specify the effective date of the order, and shall be served by the Commission upon the satellite carrier to which such order is directed.

#### **§ 1.6010 Reporting of remedial measures.**

Any satellite carrier found to have violated Section 47 U.S.C. 325(b)(1) shall, upon receipt of the cease-and-desist order, immediately take all necessary steps to comply with the statute. Within two (2) days of receipt of the cease-and-desist order, the satellite carrier shall notify the Secretary of the Commission of steps taken to comply with the statute by written submission. The submission certified by the satellite carrier's chief executive officer shall also contain a copy of the pertinent cease-and-desist order, and shall be delivered to the Secretary of the Commission by means of one commonly

used overnight delivery service, in addition to a copy delivered by United States mail.

#### **§ 1.6011 Effective date.**

The rules in section 1.6000 through section 1.6009 shall become effective May 30, 2000. Section 1.6010 contains information collection requirements that are not effective until approved by the Office of Management and Budget. The effective date for this section will be announced by the Commission in the *Federal Register*.

#### **§ 1.6012 Sunset provisions.**

No complaint may be filed under this rule section after December 31, 2001. This rule subpart shall continue to apply to any complaint filed on or before such date. *See* 47 U.S.C. 325 (e)(12).

[FR Doc. 00-4729 Filed 2-28-00; 8:45 am]

BILLING CODE 6712-01-P

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 000211040-0040-01; I.D. 022300A]

### **Fisheries of the Exclusive Economic Zone Off Alaska; Trawling in Steller Sea Lion Critical Habitat in the Central Aleutian District of the Bering Sea and Aleutian Islands**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Modification of a closure.

**SUMMARY:** NMFS is opening trawling within Steller sea lion critical habitat in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully utilize the critical habitat percentage of the 2000 harvest specifications of Atka mackerel allocated to the Central Aleutian District.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 23, 2000 until April 15, 2000.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area