

Stiff Fines Set for Pirates and Their Accomplices

In the Preventing Illegal Radio Abuse Through Enforcement Act (the PIRATE Act), Congress directed the FCC to upgrade its policing of unlicensed radio stations on broadcast frequencies – often called “pirate radio.” Among other things, this legislation gave the FCC enhanced authority to enforce its rules against the operation of unlicensed pirate radio stations in the bands allocated for AM and FM broadcasting. The FCC’s Enforcement Bureau and the Commission’s Managing Director have released an *Order* (DA 20-1490) in which the maximum fines for unlicensed broadcasting are increased and the process for imposing fines is streamlined. The FCC can adopt these amendments to its rules without an advance public notice or a comment period because the PIRATE Act requires it to make these changes. Section 1.80 of the FCC’s Rules was amended to increase the maximum fine for pirate broadcasting to \$100,000 per day, and \$2,000,000 in the aggregate for a continuing offense.

An important aspect of the law that gave rise to this rule amendment is that it was drafted expressly to enlarge the universe of parties who may be liable for pirate broadcasting or for being associated with pirate broadcasting. The new Section 1.80 states that “Any person who willfully and

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New Schedule of FCC Filing Fees Adopted

The FCC has adopted a new schedule of filing fees in a *Report and Order* (FCC 20-184) in Docket 20-270. In most cases, the amount of each newly adjusted fee is the same as was proposed in the *Notice of Proposed Rulemaking* (“NPRM”) (FCC 20-116) released last August in this proceeding. Most, but not all, of the new fees represent increases over the current rates.

A significant exception to these trends with respect to fees for broadcast filings concerns the fee for the auction short form application that had been proposed. Until now, in an auction filing window for new commercial broadcast permits, applicants could submit a Form 175 short form application without a filing fee. The short form essentially only requires the applicant to identify itself and its principals,

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Next Gen TV Ancillary Services Reviewed

The FCC has adopted a *Report and Order* (FCC 20-181) in Docket 20-145 to clarify and update its regulations governing ancillary and supplementary services (collectively, “ancillary services”) offered by television stations. Using digital television broadcasting technology, a station can offer multiple program streams and ancillary nonbroadcast services within its allotted six-megahertz channel of spectrum. The review of these rules was prompted by the potential for a wide range of new applications of Internet-like ancillary services being developed with the ATSC 3.0 operating standard, often called Next Generation TV or Next Gen TV. The clarifications and refinements adopted in this *Report and Order* pertain to all digital stations, regardless of whether they operate in ATSC 1.0 or ATSC 3.0.

The Telecommunications Act of 1996 requires broadcasters to pay the government a fee when they realize revenue from providing ancillary services for which a subscription fee is charged, or for which compensation is received from a third party for transmitting material provided by the third

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Standardization Proposed for Foreign Ownership Petitions

The FCC's International Bureau has released a *Public Notice* (DA 20-1545) in Docket 16-155, soliciting public comment on its proposal to adopt lists of standard questions to elicit data for use in evaluating petitions seeking declaratory rulings from the FCC regarding foreign ownership. Section 310(b)(4) of the Communications Act provides that a broadcast license (as well as other categories of licenses) shall not be granted to an entity controlled by another entity more than 25% of which is owned or controlled by aliens or foreign entities if the FCC finds that the public interest would be served by refusing such a grant.

A party proposing a broadcast station ownership arrangement that triggers the need for this review by the FCC must file a petition for a declaratory ruling that the proposed ownership structure would not be contrary to the public interest. The FCC has previously adopted procedures for this review process, which include participation by Executive Branch agencies with expertise in national security, law enforcement, foreign policy and international trade through the body known as the Committee for the Assessment of Foreign Participation in the United States Telecommunications Service Sector. The Executive Branch agencies represented on this Committee include the Departments of Justice, Homeland Security, Defense, State, and Commerce, and the United States Trade Representative.

The FCC has identified five categories of information needed to properly evaluate foreign ownership applications and petitions: (1) corporate structure and shareholder

information, (2) relationships with foreign entities, (3) financial condition and circumstances, (4) compliance with applicable laws and regulations, and (5) business and operational information. At the Commission's direction, the International Bureau has developed and proposed service-specific standardized questions in each of these categories.

The proposed questions are based on questionnaires currently used by the Assessment Committee. This standardization process is intended to streamline the process and permit the Committee to expedite its review of the proposals. Applicants and petitioners will submit their responses to these standard questions directly to the Committee prior to or at the same time that they file their applications and petitions with the FCC.

The International Bureau has proposed 34 standard questions for broadcast applicants to answer. The Bureau invites public comment about them. Upon review and consideration of the public comments, the Bureau intends to issue an order addressing the comments and will request approval of the final drafts under the Paperwork Reduction Act.

The proposed questions list can be reviewed on the FCC's website at: <https://www.fcc.gov/document/standard-questions-applications-referred-executive-branch>. Comments will be due 30 days after publication of notice in the Federal Register. The filing deadline for reply comments will be 45 days after publication.

Vacant Channel Proceeding Terminated

The FCC has decided not to adopt rules proposed in a 2015 *Notice of Proposed Rulemaking* (FCC 15-68) in Docket 15-146 that would have mandated the preservation of at least one vacant television channel throughout the country for the purpose of ensuring that spectrum would be available for white space devices and wireless microphones. The rules would have required television applicants for new, displacement, or modified facilities to include with the application a study demonstrating that the grant of the application would not eliminate the last available vacant UHF television channel within the protected contour of the proposed facilities. The term, "white space devices," encompasses a range of unlicensed low-power short-range radio communication systems used in such fields as health care and education, among others. They operate on vacant channels in the television band, i.e., the "white spaces," between licensed stations. The Commission has terminated this long-pending proceeding with a *Report and Order* (FCC 20-175).

At the time of this proposal, the FCC was anticipating an active period for television station modifications and

displacements in the course of the post-Incentive Auction repack. There was concern that the spectrum needs for white space devices and wireless microphones would be overlooked. White space device proponents cited the need for certainty that spectrum would be available for their use in order to promote greater innovation in new devices and services. The Commission believes that its recent actions in other proceedings have helped to create such certainty by allowing for more robust service and efficient use of the spectrum by these devices in the post-Incentive Auction television band, the 600 MHz guard bands, and in the 600 MHz wireless band, and by revising rules to allow enhanced fixed white space device operations in rural areas. Similarly, the Commission cites its actions in other proceedings to ensure that adequate spectrum is available for wireless microphones, including frequencies outside of the broadcast television band.

In light of these changed circumstances, the FCC concluded that it should not deviate from previous policies and decisions to the effect that broadcasters should have priority over other users of spectrum in the television band.

Congress Tells FCC to Tweak EAS

A high-profile news story at the end of December concerned whether the President would sign or veto the National Defense Authorization Act for Fiscal Year 2021. He vetoed the bill, but Congress overrode the veto to enact it anyway. This legislation runs for thousands of pages. Buried in an obscure position near the end of it is the Reliable Emergency Alert Distribution Improvement Act (the “READI Act”). Along with the rest of the bill the READI Act has now become law. The statute directs the FCC to conduct and complete within 180 days one or more rulemaking proceedings to amend its rules about the Emergency Alert System (“EAS”).

The FCC is to adopt regulations that will require broadcasters and other EAS participants to repeat the transmission of alerts issued by the President, the Federal Emergency Management Agency (“FEMA”), or other entity deemed appropriate under the circumstances that contain warnings of national security events. Such events would be emergencies of national significance such as a missile threat, terror attack, or other act of war or threat to public safety. The alert messages should be rebroadcast as long as the alert remains “pending.” Under the FCC’s current rules, such alert messages need to be aired only once. The law is not directed

to regional and local weather or disaster alerts, or AMBER alerts.

The statute also instructs the FCC, in consultation with the Administrator of FEMA, to conclude a rulemaking proceeding to establish a system to receive from FEMA or from state and local government sources reports of false EAS alerts. The Commission is to compile a record of false alerts and examine their causes. This provision was inspired by a 2018 incident in Hawaii where a warning alert was mistakenly disseminated concerning a nonexistent missile attack.

The READI Act also directs the FCC to enhance and supervise the workings of the State Emergency Communications Committees (“SECCs”). Among other responsibilities, the SECC assigns to each EAS participant in the state the source(s) to be monitored for EAS alerts. The FCC is to encourage each state and territorial jurisdiction to establish a SECC if it does not already have one, and then to review the composition and governance of each SECC. The FCC is to establish uniform procedures for SECCs and a checklist to be used as a guide for drafting state EAS Plans. Each SECC should meet at least annually to develop and revise its state EAS Plan, and submit the Plan to the FCC for review. The FCC is tasked with advising the SECCs, and approving or disapproving their state Plans.

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knowingly does or causes or suffers to be done any pirate radio broadcasting shall be subject to a fine . . .” While this provision appears to be capable of covering a range of accomplices to a pirate operation, the intended primary targets are the owners of properties that host pirate stations.

On the same day that the *Order* was released, the Enforcement Bureau sent warning letters to a number of landlords of premises where pirate radio stations were suspected to be located. Recipients of these letters were given 10 business days to demonstrate that they are no longer allowing pirate stations to operate on their properties, and to identify the individual(s) engaged in pirate radio broadcasting on such properties. In the absence of a response, the letters stated that:

[T]he FCC may nonetheless determine that, as a legal matter, you have sufficient knowledge of the above-referenced pirate radio activity to support enforcement action against you. Service of this Notice to you or your agent establishes the foundation, along with other evidence, that could lead to significant financial penalties.

Consistent with the purpose of the legislation, the FCC has streamlined the enforcement process by amending Section 1.80(e) of its rules to provide that, in the absence of good cause, the Commission shall, “in the first instance,” propose a penalty against anyone who knowingly does or suffers to be done any pirate broadcasting.” It has been the FCC’s practice to first issue a notice of unlicensed operation to a suspected pirate before proposing to levy a fine. A fine can now be proposed without first giving the suspected pirate advance notice that the Commission considers the station to be illegal.

The new Section 1.80 will become effective 30 days after notice is published in the Federal Register.

More recently, the Enforcement Bureau has issued another *Order* (DA 20-1540) to make inflation-related adjustments to the amounts of forfeitures listed in Section 1.80. As of January 15, 2021, the maximum one-day fine for a pirate radio violation will be \$101,182, and the maximum aggregate will be \$2,023,640.



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

January 10 Deadline to place quarterly Issues/Programs List in Public Inspection File for all full service radio and television stations and Class A TV stations.

January 10 Deadline for noncommercial stations to place quarterly report re third-party fundraising in Public Inspection File.

February 1 Deadline to file license renewal applications for radio stations in **Kansas, Nebraska, and Oklahoma**, and television stations in **Arkansas, Louisiana, and Mississippi**.

February 1 Deadline to place EEO Public File Report in Public Inspection File and on station's Internet website for all nonexempt radio and television stations in **Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma**.

February 1 Deadline for all broadcast licensees and permittees of stations in **Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York, and Oklahoma** to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).

February 1 Deadline for Children's Television Programming Reports for all full power and Class A television stations for 2020.

February 1 Deadline to place annual certification of compliance with the commercial limits for children's television programming in station's Public Inspection File, covering the period January 1, 2020, through December 31, 2020.

February Radio stations in **Kansas, Nebraska, and Oklahoma**, and television stations in **Arkansas, Louisiana, and Mississippi** begin broadcasting post-filing announcements within five business days of acceptance of application for filing and continuing for four weeks.



Proposed Amendment to the Television Table of Allotments

The FCC is considering a petition to amend the digital television Table of Allotments by changing the channel allotted to the community identified below. The deadlines for submitting comments and reply comments are shown.

COMMUNITY	STATION	PRESENT CHANNEL	PROPOSED CHANNEL	COMMENTS	REPLY COMMENTS
Columbia, MO	KOMU-TV	8	27	Jan. 19	Feb. 16

Cut-Off Date for AM and FM Applications to Change Community of License

The FCC has accepted for filing the applications identified below proposing to change the community of license for each station. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **January 11, 2021**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Port St. Joe, FL	Youngstown, FL	WTKP	229	93.7
Jamestown, NY	Tidioute, PA	WCOT	215	90.9
Ramapo, NY	Haverstraw, NY	WRCR(AM)	n/a	1700
Tidioute, PA	Clintonville, PA	WCGT	204	88.7
Pinopolis, SC	St. Stephen, SC	WTUA	290	105.9
Centralia, WA	McKenna, WA	KZTM	275	102.9



DEADLINES TO WATCH



Deadlines for Comments in FCC and Other Proceedings

DOCKET

COMMENTS

REPLY COMMENTS

(All proceedings are before the FCC unless otherwise noted.)

Docket 20-299; NPRM (FCC 20-146) Sponsorship ID for foreign government programming		January 25
Docket 16-142; Public Notice (DA 20-1394) Legal status of multicast streams under Next Gen TV simulcasting rules		January 25
Docket 20-36; NPRM (FCC 20-156) Unlicensed operations in TV white spaces	FR+30	FR+60
Docket 20-401; NPRM (FCC 20-166) Geo-targeting by FM booster stations	FR+30	FR+60
Docket 16-155; Public Notice (DA 20-1545) Standard questions for review of foreign ownership proposals	FR+30	FR+45

FR+N means the filing deadline is N days after publication of notice of the proceeding in the Federal Register.

Paperwork Reduction Act Proceedings

The FCC is required by the Paperwork Reduction Act to periodically collect public information on the paperwork burdens imposed by its record-keeping requirements in connection with certain rules, policies, applications and forms. Public comment has been invited about this aspect of the following matters by the filing deadlines indicated.

TOPIC	COMMENT DEADLINE
Environmental assessments re RF radiation exposure, Sections 1.1307, 1.1311	Jan. 15
Blanketing interference, Sections 73.88, 73.318, 73.685	Jan. 20
Participation in competitive bidding for support, Section 1.21001	Jan. 25
Prohibited communications during competitive bidding, Section 1.21002	Jan. 25
Radio station digital notification, Form 335	Jan. 25
Broadcast EEO Program Model, Form 396-A	Jan. 28
Program tests, Section 73.1620	Feb. 2
Sponsorship identification, Section 73.1212	Mar. 1

All-Digital AM Almost Ready to Launch

The FCC's new rules authorizing AM radio stations to transmit an all-digital signal became effective on January 4, 2021. Stations can now make plans, and purchase and install equipment for all-digital facilities. An application for a construction permit is not necessary. Instead, a station must simply notify the FCC when it is prepared to begin the all-digital operation. The FCC, in turn, will release a public notice that the station has notified the agency. The all-digital transmission can begin 30 days after the release of the FCC's public notice.

However, another procedural obstacle remains before stations can begin all-digital broadcasting. The new Section 73.406 of the FCC's Rules specifies the information the station must submit to the FCC in its notification. This is a new information collection requirement that must be approved by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act. Therefore, the mandated process for publishing public notice about the new digital facilities that must precede actual broadcasting cannot get underway until the new form has been approved by OMB.



Happy New Year!



New Schedule of FCC Filing Fees Adopted continued from page 1

and to list the permits for which it wishes to bid. In most cases, no engineering is necessary. The applicant winning the construction permit in the auction then has to pay, in addition to the winning bid price, a filing fee for the long form construction permit application. In the NPRM the FCC proposed to establish a filing fee of \$575 for the pre-auction short form application.

While proposing the new filing fee for the short form application in the NPRM, the FCC invited comment on whether such a filing fee would inhibit the filing of applications and thereby reduce competition in the auction. Upon consideration of the record, the Commission has determined that the benefits of more robust competition in the auction outweigh the need to collect a filing fee for each short form application. In the schedule adopted by the Commission, there is no pre-auction filing fee for the short

form application. However, the winning bidder will now pay a consolidated post-auction filing fee for both its short form and its long form applications. The amount of that filing fee will be the amount designated for the new station construction permit in the service in question plus \$575 for the short form.

Applications pertaining to noncommercial stations are exempt from filing fees. Applicants that are governmental entities are exempt from filing fees for both commercial and noncommercial stations.

The tables below indicate the current and the new fee for most types of applications of interest to broadcasters. The FCC must notify Congress of the new fee schedule before it can become effective. In due course after that notice has been given, the Commission will announce the effective date for these fees in the Federal Register.

SCHEDULE OF NEW FCC FILING FEES

<u>APPLICATION TYPE</u>	<u>CURRENT FEE</u>	<u>NEW FEE</u>	
Full Power and Class A Television			
New or major change construction permit	\$ 4,960	\$4,260	(if no auction)
		4,835	(if auction – includes consolidated post-auction long form and short form fees)
Minor change construction permit (full power only)	1,110	1,335	
New license	355	380	
License renewal	200	330	
Assignment/transfer of control (long form)	1,110	1,245	
Assignment/transfer of control (short form)	160	405	
Special temporary authority	200	270	
Rulemaking petition (full power only)	3,065	3,395	
LPTV and TV Translator			
New or major change construction permit	835	775	(if no auction)
		1,350	(if auction – includes consolidated post-auction long form and short form fees)
New license	170	215	
License renewal	70	145	
Special temporary authority	200	270	
Assignment/transfer of control (all forms)	160	335	
Call sign	110	170	
AM Radio			
New or major change construction permit	4,415	3,980	(if no auction)
		4,555	(if auction – includes consolidated post-auction long form and short form fees)
Minor change construction permit	1,110	1,625	
New license	725	645	
License renewal	200	325	
Directional antenna	835	1,260	
Remote control	70	None	
Assignment/transfer of control (long form)	1,110	1,005	
Assignment/transfer of control (short form)	160	425	
Special temporary authority	200	290	

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SCHEDULE OF NEW FCC FILING FEES (cont.)

<u>APPLICATION TYPE</u>	<u>CURRENT FEE</u>	<u>NEW FEE</u>	
FM Radio			
New or major change construction permit	3,975	3,295	(if no auction)
		3,870	(if auction – includes consolidated post-auction long form and short form fees)
Minor change construction permit	1,110	1,265	
New license	225	235	
License renewal	200	325	
Directional antenna	695	630	
Assignment/ transfer of control (long form)	1,110	1,005	
Assignment/ transfer of control (short form)	160	425	
Special temporary authority	200	210	
Rulemaking petition	3,065	3,180	
FM translator, FM booster			
New or major change construction permit	835	705	(if no auction)
		1,280	(if auction – includes consolidated post-auction long form and short form fees)
Minor modification construction permit	None	210	
New license	170	180	
License renewal	70	175	
Special temporary authority	200	170	
Assignment/ transfer of control (all forms)	160	290	
TV, Class A TV, AM and FM			
Call sign	110	170	
Ownership report	70	85	
Permit to Deliver Programs to a Foreign Broadcast Station			
New license	110	360	
License modification	110	185	
License renewal	110	155	
Special temporary authority	110	155	
Transfer of control	110	260	
Receive-Only Earth Station			
Initial application or registration (single site)	450	175	
Initial application or registration (multiple sites, per system)	N/A	465	
(There are other fees for earth station applications not included here.)			
Auction Short-Form	None	None	(pre-auction)
Petition for Declaratory Ruling re Foreign Ownership	None	2,485	

Next Gen TV Ancillary Services Reviewed continued from page 1

party. Revenue from the sale of commercial advertising used to support broadcasting for which a subscription fee is not charged is not subject to the fee. The FCC has the responsibility to set the amount of these fees. The statute states that the fee should be designed to return to the public a portion of the value of public spectrum employed by the broadcaster to offer the service(s), and to recover over the term of the license an amount equal to what the public would have received from an auction of the spectrum. Television licensees that offer ancillary services are required to file an

annual report to describe the services that they have offered. They must disclose the gross revenues received, if any, and tender the fee.

At the outset of digital television broadcasting, the FCC set the fee at five percent of gross receipts. The rate has remained unchanged since then. Whether to adjust the amount of the fee was an issue in this proceeding. With the exception of fees imposed on the revenue from noncommercial services offered by noncommercial television stations, the

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Next Gen TV Ancillary Services Reviewed continued from page 7

Commission declined to implement any adjustments now, reasoning that it does not have sufficient information at this early stage of the development of ATSC 3.0 to evaluate whether changes are justified. However, the FCC did commit to revisit the size and basis for calculating the fee, as well as other relevant issues, when it has a better understanding of how the transition to ATSC 3.0 is progressing.

The FCC also considered aspects of the formula for calculating the amount of the gross revenue subject to these fees. The Commission adopted the tentative conclusion offered in the *Notice of Proposed Rulemaking* (“NPRM”) (FCC 20-73) in this proceeding that the fee should be based on the gross revenue of the station licensee rather than the gross revenue of a party providing services on the station’s facilities as a spectrum lessee. A fee based on the lessee’s revenues could subject the station to a fee that is greater than its own gross receipts from the service. The FCC did adopt an exception to this principle in cases where the station has an ownership stake in the spectrum lessee. A percentage of the lessee’s gross receipts equal to the licensee’s ownership interest in the lessee will be attributed to the station licensee for the purposes of calculating its ancillary services fee.

The FCC had tentatively concluded in the NPRM that the value of in-kind facility improvements received by a station should be included in the calculation of its gross revenue received from ancillary services. However, the Commission found that the record in this proceeding on this topic was limited and mixed. The Commission therefore declined to adopt a ruling on this issue and decided instead to continue to monitor the status in the marketplace of in-kind transactions related to these services.

The FCC also considered the status of certain kinds of Broadband Internet services offered via ATSC 3.0 that could be described to have public interest value, such as telehealth, distance learning, and services that facilitate public safety, homeland security, or rural Internet access. Commenters suggested that such services should be exempt from fees. The Commission again concluded that it was premature to adopt such an exemption at this early stage of the development and implementation of ATSC 3.0.

Section 73.621(a) of the FCC’s Rules mandates that the facilities of a noncommercial television station be used “primarily to serve the educational needs of the community.” In a 2001 order about ancillary services, the FCC interpreted this rule to the effect that a “substantial majority” of a noncommercial station’s digital bitstream must be dedicated to a nonprofit, noncommercial, educational broadcast service. This limited the flexibility for a noncommercial station to offer ancillary services. The Commission has now adopted an interpretation of Section 73.621 to permit ancillary services

to be included within the measure of a station’s “primary” offerings if they are nonprofit, noncommercial, or educational in nature. The term “substantial majority” in this context has not been quantitatively defined. However, the Commission suggested that it will consider this issue in a future rulemaking.

Noncommercial stations are not exempt from the obligation to pay a portion of their ancillary revenues to the U.S. Treasury. However, in an effort to afford noncommercial stations increased flexibility to provide nonprofit, noncommercial, or educational ancillary services, the FCC has reduced the fee imposed on the receipts from such services to 2.5 percent. The rate for revenues from services that do not qualify as nonprofit, noncommercial, or educational will remain at five percent. Public television commenters asked the FCC to adopt a safe-harbor list of services that would qualify for noncommercial status. Again, because of the nascent character of ATSC 3.0 services, the Commission declined to adopt a list of specific categories that would qualify. Instead, the Commission said that it will defer to the station’s judgment about whether a specific service qualifies as noncommercial, nonprofit, or educational, unless such classification appears to be arbitrary or unreasonable. Noncommercial stations will be expected to identify which of their services qualify for the reduced fee in their annual Ancillary and Supplementary Service Reports.

Under Section 73.624(b) of the FCC’s Rules, each digital television station is to provide at least one standard definition over-the-air video program signal at no direct charge to viewers that is at least comparable in resolution to analog television programming. Stations have the discretion to use the balance of their digital capacity for any combination of permitted services. However, the provision of ancillary services is not permitted to derogate the standard definition program stream. The FCC has amended the language in this rule to eliminate an outmoded reference to analog transmissions and to provide a technical definition for the required program stream. The required program stream must have a resolution of at least 480i (vertical resolution of 480 lines, interlaced).

Commenters in this proceeding proposed that stations should be prohibited from replacing high definition with standard definition video service in order to make capacity available for ancillary services. The FCC rejected this proposal, reiterating that under the current rules there is no obligation for a station to provide a high definition signal, nor to continue to do so even if it offered one previously. The Commission said it would rely on marketplace incentives to guide broadcasters’ decision-making about the nature and quality of the service to be provided.

The rules amended in this *Report and Order* will become effective 30 days after publication in the Federal Register.

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