described as "low calorie" shall be considered to mean a food containing not more than 15 calories in a serving and not more than 30 calories in the average total daily intake of the food.

(2) The statements supplying the information required by paragraph (a) of this section.

(g) The comparison applying to a food as required by paragraph (b)(4), (d)(2), or (e)(1) of this section may be made with a similar food as customarily made and consumed. For a food which is of caloric importance in the ordinary diet, a total reduction of less than 50 percent in calories resulting from use of an artificial sweetener or other constituent which is not utilized in normal metabolism, or some other means, shall be considered to be insignificant and such food shall not be represented for use as a food for special dietary use based on its caloric content for the purpose of reducing or maintaining body weight, since such use and labeling representation would be misleading within the meaning of sections 201(n) and 403(a) of the act.

**§ 125.6 Label statements relating to food for use in the diets of diabetics.**

If a food purports to be or is represented for special dietary use as a food for use in the diets of diabetics, the label shall bear:

(a) In type of uniform size and prominence, the statement "For the diets of diabetics," immediately before or after the name of such food.

(b) A statement of the quantity in grams of protein, fat, carbohydrate, and available calories in 100 grams of such food and a statement of the number of available calories in a specified serving of such food.

(c) If such food contains any added artificial sweetener, the statements supplying the information required by § 125.5(b) (1), (2), and (3).

(d) If such food contains any added constituent which is not utilized in normal metabolism as a source of calories (other than an artificial sweetener), a statement of the percent by weight of such constituent, and, in juxtaposition with the name of such constituent, the word "Nonnutritive." If such constituent is fibrous plant matter, it shall be considered to be crude fiber and its presence expressed as such.

**§ 125.7 Label statements relating to hypoallergenic food.**

If a food purports to be or is represented for special dietary use by reason of the decrease or absence of any allergenic property, or by reason of being offered as food suitable as a substitute for another food having an allergenic property, the label shall bear:

(a) The common or usual name and the quantity or proportion of each ingredient, including spices, flavoring, and coloring, in case the food is fabricated from two or more ingredients.

(b) A qualification of the name of the food, or the name of each ingredient thereof, in case the food is fabricated from two or more ingredients, to reveal clearly the specific plant or animal that is the source of such food or of such ingredient, if such food or such ingredient consists in whole or in part of plant or animal matter and such name does not reveal clearly the specific plant or animal that is such a source.

(c) An informative statement of the nature and effect of any treatment or processing of the food or any ingredient thereof, if the changed allergenic property results from such treatment or processing.

**§ 125.8 Label statements relating to food for use as a means of regulating the intake of sodium.**

If a food purports to be or is represented for special dietary use by man by reason of its use as a means of regulating the intake of sodium or salt (sodium chloride), the label shall bear a statement of the number of milligrams of sodium in 100 grams of such food and a statement of the number of milligrams of sodium in a specified serving of such food. The number of milligrams of sodium shall be declared as the nearest multiple of 5 milligrams, as determined by appropriate analysis, except that if such food contains not more than 10 milligrams of sodium in 100 grams of the food and not more than 10 milligrams of sodium in a specified serving of the food, the label shall bear a statement to that effect.

Since some persons who were not adversely affected by the orders published in the FEDERAL REGISTER of June 18, 1966, may be adversely affected by the amendments set forth in this order, an additional period of 30 days from the date of publication of this order in the FEDERAL REGISTER is allowed for such persons to file written objections thereto.

Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof and must be filed with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201. All documents shall be filed in six copies.

It is unnecessary to repeat objections already made, and if no additional objections are filed, the matter will proceed to a public hearing on the issues specified above. It is anticipated that the public hearing will be announced in the FEDERAL REGISTER early in 1967.

(Secs. 401, 403(j), 701(e), 52 Stat. 1046, as amended, 1048, 1055, as amended; 21 U.S.C. 341, 343(j), 371(e))

Dated: December 9, 1966.

JAMES L. GODDARD,
*Commissioner of Food and Drugs.*

[F.R. Doc. 66-13393; Filed, Dec. 13, 1966; 8:47 a.m.]

# Title 26—INTERNAL REVENUE

## Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 6902]

## PART 301—PROCEDURE AND ADMINISTRATION

### Delegation of Authority to Sanction Civil Actions

In order to conform §§ 301.7401–1 and 301.7403–1 of the Regulations on Procedure and Administration to General Counsel Order No. 34, relating to the authority of the Chief Counsel for the Internal Revenue Service to authorize or sanction civil actions for the collection of taxes, etc., such sections are amended as follows:

PARAGRAPH 1. Paragraph (a) of § 301.7401–1 is amended to read as follows:

**§ 301.7401–1 Authorization.**

(a) *In general.* No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Commissioner (or the Director, Alcohol and Tobacco Tax Division, with respect to the provisions of subtitle E of the Code), or the Chief Counsel for the Internal Revenue Service or his delegate authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced. With respect to forfeitures, the assistant regional commissioner or supervisor in charge (alcohol and tobacco tax) may also authorize or sanction the proceedings.

* * * * *

PAR. 2. Section 301.7403–1 is amended to read as follows:

**§ 301.7403–1 Action to enforce lien or to subject property to payment of tax.**

In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Commissioner (or the Director, Alcohol and Tobacco Tax Division, with respect to the provisions of subtitle E of the Code) or the Chief Counsel for the Internal Revenue Service or his delegate, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under the Code with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such tax or liability. In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Commissioner during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

Because this Treasury decision merely conforms §§ 301.7401–1 and 301.7403–1 of the Regulations on Procedure and Administration to General Counsel Order No. 34, dated December 23, 1964, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of said Act.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] SHELDON S. COHEN,
*Commissioner of Internal Revenue.*

Approved: December 9, 1966.

STANLEY S. SURREY,
*Assistant Secretary of the Treasury.*

[F.R. Doc. 66–13421; Filed, Dec. 13, 1966; 8:49 a.m.]

# Title 13—BUSINESS CREDIT AND ASSISTANCE

## Chapter I—Small Business Administration

[Amdt. 10; Rev. 6]

## PART 121—SMALL BUSINESS SIZE STANDARDS

### Definition of Small Business for Government Procurement

In F.R. Doc. 66–12553 appearing at page 14737 of the issue for Saturday, November 19, 1966, subparagraphs (4) and (5) are added to § 121.3–8(b).

As corrected, § 121.3–8(b) reads as follows:

**§ 121.3–8 Definition of small business for Government procurement.**

* * * * *

(b) *Manufacturing.* Any concern bidding on a contract for a product it manufactured is classified:

(1) As small if it is bidding on a contract for food canning and preserving and its number of employees does not exceed 500 persons, exclusive of agricultural labor as defined in section (k) of the Federal Unemployment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

(2) As small if it is bidding on a contract for a product classified within an industry set forth in Schedule B of this part and its number of employees does not exceed the size standard established for that industry.

(3) As small if it is bidding on a contract for a product classified within an industry not set forth in Schedule B of this part and its number of employees does not exceed 500 persons.

(4) As small if it is bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112: *Provided,* That (i) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured in the United States during the preceding calendar year is more than 50 percent of the value of its total world-wide manufacture, (ii) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured world-wide during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold world-wide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

(5) As small if it is bidding on a contract for passenger cars within Census Classification Code 37171: *Provided,* That (i) the value of the passenger cars within Census Classification Code 37171 which it manufactured or otherwise produced in the United States during the preceding calendar year is more than 50 percent of the value of its total world-wide manufacture or production of such passenger cars, (ii) the value of the passenger cars within Census Classification Code 37171, which it manufactured or otherwise produced during the preceding calendar year was less than 5 percent of the total value of all such cars manufactured or produced in the United States during the said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

Dated: December 9, 1966.

BERNARD L. BOUTIN,
*Administrator.*

[F.R. Doc. 66–13375; Filed, Dec. 13, 1966; 8:46 a.m.]

# Title 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

[Docket No. 15735; FCC 66–1133]

## PART 25—SATELLITE COMMUNICATIONS

### Satellite Earth Station Ownership Policy

In the matter of amendment of part 25 of the Commission's rules and regulations with respect to ownership and operation of initial earth stations in the United States for use in connection with the proposed global commercial communication-satellite system, Docket No. 15735, RM–644; second report and order.

*Preliminary statement.* 1. On May 12, 1965, the Commission adopted an interim policy with respect to ownership and operation of initial earth stations in the United States (38 FCC 1104). We stated therein that the policy is to remain in effect for 2 years from the date the first station license is granted, unless experience indicated the desirability of earlier revision. We believe that revision is now called for in light of new developments in this area, set forth more fully hereinafter, particularly the filing of numerous applications for additional earth stations described in the following paragraph. Our revision also takes into account the data developed and the views expressed by all interested common carriers providing international communications services as well as the Communications Satellite Corporation (Comsat) during the extensive informal conferences held in August, September, and October, 1966, with the interested parties concerning the applications. It is designed to further promote the objectives and provisions of the Satellite Act of 1962 (e.g., sec. 102 (a) and (b), 201 (c)(7)).

2. There are pending before the Commission applications from the Comsat for authority: To construct a new earth station at Moorefield, W. Va. (File No. 10–CSG–P–60), filed on March 30, 1966; to construct a new earth terminal at St. Croix, Virgin Islands (File No. 14–CSG–P–66 filed Apr. 25, 1966;)[1] to construct an additional antenna at Andover, Maine (File No. 20–CSG–P–67 filed on Oct. 5, 1966;) and to construct a new earth terminal at San Ardo, Calif. (File No. 26–CSG–P–67 filed on Oct. 26, 1966). ITT World Communications, Inc. (ITT Worldcom), RCA Communications, Inc. (RCAC), and Western Union International, Inc. (WUI) have filed a joint application to construct a new earth terminal at Woodland, Ga. (File No. 15–CSG–P–66 filed on May 11, 1966). ITT Cable and Radio Inc.-Puerto Rico has filed an application for authority to construct a new earth terminal at San Lorenzo, P.R. (File No. 8–CSG–P–66 filed on Nov. 22, 1965.)

3. All of these applications[2] have been the subject of comments or objections on policy and technical grounds as well as petitions to deny, oppositions, and replies. In all, more than 45 pleadings and comments have been received thus far.[3] It is clear from a review of the various filings that, except for the Comsat Andover application, the Comsat California application, and the Comsat Puerto Rico application, for which the time to file objections has not yet expired, there are technical objections which would have thus far prevented affirmative action by the Commission even if there were no policy problems involved and even if there were no questions of mutual exclusivity between applications (Ashbacker rights).

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[1] On Nov. 16, 1966, Comsat filed a superseding application (File No. 28–CSG–P–67) for a site specified as Barrio Monte Llano, Cayey, P.R.

[2] Except for the Comsat applications for new earth stations at Puerto Rico and San Ardo, Calif., with respect to which the time for objections and comments has not yet expired.

[3] To date, filings with respect to one or more of the several pending applications have been received from Comsat, AT&T, ITT Worldcom, RCAC, WUI, Western Union, NASA, DTM, NRAO, NRL, and the National Academy of Science.

4. However, aside from technical questions, we have determined upon review that the Comsat West Virginia and the joint carrier Georgia applications are economically mutually exclusive. (See release of Commission No. 84422 dated May 23, 1966.) The critical factor in the mutually exclusive West Virginia and Georgia applications is the fact that there is an urgent need now for a second antenna in the eastern part of the United States. This is so because there will soon be a second satellite positioned over the Atlantic. A second antenna is essential to enable the United States to communicate via both (Intelsat I and II) satellites with its own facilities. Furthermore, it is the consensus that, even if a second antenna were to be constructed at Andover, a second station in the southeastern part of the United States should be constructed promptly to alleviate the need to backhaul traffic from central and eastern United States to Maine, as well as to provide diversity of location and mutual backup in case of failure of any one antenna; and to handle traffic with Puerto Rico where, as set forth more fully in a companion memorandum opinion and order we have determined an earth station should be authorized.[4]

5. The critical factor in the mutually exclusive Virgin Islands and Puerto Rico applications is the urgent need for additional facilities to serve these islands, as well as other Caribbean points as set forth in the above referenced memorandum opinion.

6. While there are no competing applications for a second earth terminal on the west coast, the views expressed with respect to the east coast and Caribbean applications lead us to believe we may very well be confronted with a similar problem there shortly.

*Background.* 7. The Communications Satellite Act of 1962[5] (Satellite Act) provides in section 201(c)(7) that the Commission is authorized to:

> grant appropriate authorizations for the construction and operation of each satellite terminal station, either to the corporation or to one or more authorized carriers or to the corporation and one or more such carriers jointly, as will best serve the public interest, convenience, and necessity. In determining the public interest, convenience, and necessity the Commission shall authorize the construction and operation of such station by communications common carriers or the corporation, without preference to either;

Thus, the Commission is charged with the responsibility of determining the entities or group of entities to be licensed to construct and operate earth stations.

8. In the discharge of that responsibility and specifically to deal with the problem when the initial satellite, Early Bird or Intelsat I, was being constructed, we formulated the May 1965 interim policy. At that time Comsat had filed a petition for rule making requesting that a rule be adopted under which Comsat would be authorized to construct, own, and operate the initial earth stations. After considering the filings of interested parties, the Commission issued its report and order in the matter, Docket No. 15735 (38 FCC 1104, 1965) wherein we concluded that Comsat should be authorized to construct, own and operate the three initial earth stations, one each in the northeastern and northwestern part of the conterminous United States, and one in Hawaii. As stated, this policy was to remain in effect for a 2-year period after the date the first station license is granted subject, however, to appropriate revision in light of experience. We further concluded that when it was demonstrated that additional stations are required we would entertain appropriate applications therefor, from Comsat or any carrier eligible under section 201(c)(7) of the Satellite Act.

9. Comsat is now operating the station at Andover, Maine (northeastern United States).[6] It has essentially completed construction of the permanent station at Brewster Flat, Wash. (northwestern United States), and at Paumalu, Hawaii (Hawaii station) as provided in our report and order in Docket No. 15735. Further it has, in our opinion, been clearly demonstrated that additional stations are required. We now turn to what revision, if any, of our interim policy is called for, to deal with these applications, as well as others which may be filed in the near future.

10. Before discussing the need for revision, we shall comment briefly on two points. First, we point out that, for the considerations developed at length in our May 13, 1965, report, the public interest would not be served if the Commission delayed decision on this matter until the conclusion of several hearings. There is an urgent need for prompt decision and immediate commencement of construction of additional stations. This need is even greater at present than when the original question was before us as a second satellite for transatlantic service is scheduled to be launched in the relatively near future. Aside from this, the third generation of satellites is scheduled to be launched by early 1968. Even a most expedited hearing could delay the start of construction long beyond the time available if stations are to be operable when the satellites are positioned in orbit. Further, the procedure we are adopting is better suited to facilitating a solution to the serious technical objections which have been raised to the proposed station sites, and thus avoids the grave danger that interference problems, even after hearing, could frustrate the grant of any of the pending applications. Such a situation would, of course, cause additional serious delay in the implementation of this nation's earth station program. The enunciated policy of Congress that the global system be established as expeditiously as practicable and that new service be made available as quickly as possible (Satellite Act, sec. 102 (a) and (b)) would not be effectuated by hearing procedures. Finally, we believe that there are certain basic policy considerations involved which transcend the individual applications for specific stations. We are therefore proceeding along the same lines as in the 1965 report, namely, the appropriate revision of the interim policy adopted in that report.

11. Second, we believe that a revision of our original policy is called for because it is not appropriate to extend the initial policy to encompass the additional earth stations and license Comsat to construct, own, and operate them. Such expansion would effectively preclude the carriers from any participation in earth station ownership during the early years of operation and would necessarily involve an extension of the original policy for several more years while the additional stations are being constructed and operated for a further interim period. This would, we believe, be contrary to the spirit and intent of Congress in section 201(c)(7), e.g., see Senate Report No. 1584, 87th Congress, 2d session, page 18. Under such a course the carriers would not, for the extended period of time, be in a position to make meaningful contribution to the development of the art and their incentives to aid in the growth of satellite communications would be severely limited. They would be faced with the prospect of ever diminishing rate bases, both in the absolute and relative senses, and would be driven to seek alternative means not necessarily dictated by efficiency but by need for survival.

12. We shall first consider a possible revision whereby the carriers would be licensed to construct, own and operate the next three stations either individually or jointly. This approach has an appearance of equity in that it would give the carriers an opportunity to gain experience in this field equal to that given Comsat by our initial policy with respect to the original three stations. But we regard this approach as not feasible, essentially for reasons already set forth in our May 1965 report. Most significantly, it would tend to fragment responsibility for, and control of, what must be a unified system at this stage of development of the art when a proliferation of earth stations is neither technically nor economically feasible. The necessity for centralized responsibility will become more essential as the number of satellites and earth stations increases. For example, in the present state of the art as the number of satellites grow, we can expect complex problems involving access (which earth station shall communicate with which satellite), points of communication (which earth station shall be used for communication with Europe, Africa, or South America via which satellite), and backup (what to do if one satellite or earth station becomes inoperable). These problems clearly indicate the need at present for unified control of all earth stations by a single entity.

13. A second consideration which militates against carrier ownership of additional earth stations to the exclusion of

[4] See companion memorandum opinion and order (file Nos. P-C-6290; S-C-L-38) adopted this date.

[5] 47 U.S.C. 701; 76 Stat. 419 (Aug. 31, 1962).

[6] An application for purchase of the Andover facility by Comsat is presently under consideration by the Commission.

Comsat, results from Comsat's unique position in the industry. While our "authorized user" decision in Docket No. 16058 (4 FCC 2d 421) is subject to petitions for reconsideration on other grounds, all interested parties appear to have accepted our conclusion that Comsat is to serve primarily as a carrier's carrier. It therefore will generally not have access to the general using public. If both Comsat and the carriers were to operate earth stations capable of communicating with the same overseas points, difficult problems of assignment of channels, station utilization and operation would arise. It would be necessary to devise arrangements for the division of channel requirements between Comsat and each of the carriers on some equitable basis with due allowances for changes in traffic patterns and additions of new points.

14. In view of all of the foregoing considerations we are convinced that we should not now embark upon an interim policy of licensing one or more carriers to construct, own and operate the next three earth stations.

15. A policy pursuant to which Comsat and the carriers now using earth stations to provide service are jointly authorized to plan, construct and/or operate the present stations and the three proposed stations not only would alleviate the difficulties in the previous discussion (pars. 12–14) but also offers numerous affirmative advantages.

16. Reasonable and equitable opportunities would thereby be offered all entities which make use of the satellite facilities to make whatever contributions they can to the advance of the art and to the achievement of the objectives of the Satellite Act. No one carrier or group of carriers would be precluded from gaining valuable experience in this field. Ownership participation and investment would provide powerful incentives to maximize use. Orderly planning of needed new cable, satellite, and other facilities would be facilitated so that the inherent advantages of each could be exploited to the maximum. The U.S. telecommunications industry would be in a position to deal on equal terms with its foreign correspondents which, for the most part, have unified cable and satellite interests.[6a]

17. In view of the foregoing considerations we believe we should modify our present interim policy in favor of one where Comsat and the carriers are jointly licensed to construct, own, and operate the stations which it appears are required for the global system. These are the presently authorized stations at Andover, Maine; Brewster Flat, Wash. and Paumalu, Hawaii, and proposed stations in the southeastern and southwestern parts of the conterminous States, as well as in the Puerto Rico-Virgin Islands[7] area.

*Joint ownership policy.* 18. In the course of our consideration of the competing applications for the earth stations in West Virginia and Georgia, we encouraged the interested carriers[8] and Comsat to form ad hoc committees on the policy and technical questions involved under the aegis of the Commission to determine if agreement could be reached on a plan whereby the needed station would be constructed promptly while the question of ultimate ownership and operation was being resolved. Several meetings were held but no agreement could be reached. It quickly became apparent that the inability to reach any agreement resulted from concern that whatever was done with respect to construction would have carry-over effects on permanent operations. It was also clear that the concerns of the carriers went beyond the problems involved in the West Virginia-Georgia applications to the overall problems of earth station ownership and operation.

Upon review and consideration of this matter we are of the opinion that an overall solution to the question of earth station ownership and operation for a period of several years is essential for expeditious establishment of an effective and efficient global system and orderly development of a comprehensive complex of earth stations.

19. Comsat made a useful contribution to a possible solution in its suggestion at the ad hoc committee meetings. Its suggestion was confirmed by an exchange of correspondence with WUI,[9] that it would be willing to accept a 50 percent ownership interest in the three existing earth stations and the three for which applications are now on file, if certain other problems relating to control, management and operation of the earth stations, as well as to the volumes of traffic to be handled via satellite could be resolved.[10] Although the Comsat proposal was not accepted by the other carriers, primarily because of the inability of the carriers to agree on their respective shares, it was readily apparent that the basic principle of joint ownership was acceptable to all concerned. Both Comsat and the carriers, however, made it amply clear that their interest in joint ownership procedure was dependent upon conditions which protected their respective legitimate interests.

We agree that any policy we adopt must make due allowances for such interests, so long as they are consistent with the public interest and will further the basic purposes and policy objectives of the Communications Act and the Satellite Act.

20. It appears that any policy we adopt must take into consideration the following:

(a) The basic responsibility of Comsat to plan for an bring into being a global satellite system as soon as practicable;

(b) The fact that Comsat has no interest in any communication facilities other than satellites, whereas the other carriers do have cable and terrestrial radio facilities available to them for service to the public;

(c) Participation in ownership should be computed in such fashion as to encourage use of the system by all carriers;

(d) The need for unified control in the operation of the stations at this stage of the art;

(e) The need to insure access on uniform and nondiscriminatory terms to all authorized carriers, Comsat and such entities as Comsat may be licensed to serve as authorized users; and

(f) The need to maintain maximum flexibility to accommodate such changes as future developments in use, requirements, and technology dictate.

21. Under our first interim policy decision Comsat is the licensee of the initial three stations. Comsat is concerned solely with satellite communications, and its future rests on the success of this medium. It is no outlet for communications investment in either cables or terrestrial radio facilities. The exchange of letters referred to above indicates Comsat's belief that a joint ownership plan, under which it would have a 50-percent ownership interest in all six proposed stations, would be fair and equitable. We believe that in the present situation and in the current state of the art its position is both fair and sound in view of its primary responsibility for the establishment of a global system at the earliest possible date and the fact that under such an approach Comsat's total interest and investment in the six stations initially to be covered by our modified policy would approximate the ownership or interest it now has in the three stations under our original policy.

[6a] However, in the interest of promoting equitable and balanced utilization of satellite and cable circuits, we propose to adopt appropriate safeguards when authorizing the construction of new facilities to insure that the carriers will not unduly favor their wholly owned facilities in providing their communications services to the public. We believe such safeguards are desirable inasmuch as under our "Authorized User" decision, discussed above, only the carriers will have direct access to the public, except in exceptional or unique circumstances, and, therefore, will be in a position to control the circuit facilities (i.e. satellite or others) to be used in furnishing communications services to the public.

[7] See companion memorandum opinion and order (FCC Mimeo No. 91928) wherein we set forth our reasons for licensing both a cable and earth station to serve this area.

[8] The Western Union Telegraph Co. participated in the discussions. It has filed a pleading requesting that it be declared an authorized carrier and participant in the construction and/or ownership of the earth stations with the other carriers. This petition is disposed of in a companion memorandum opinion and order adopted this date. Our action herein is concerned with policy relating to ownership of earth stations used to furnish international service. It is, therefore, subject to appropriate revision in light of any new developments in the domestic satellite communications field. We shall consider applications for earth stations for domestic communications service filed Nov. 7, 1966, by Western Union at an appropriate time.

[9] Letter from Mr. Gallagher, president of WUI, to Dr. Charyk, president of Comsat, dated Oct. 14, 1966, and the latter's reply dated Oct. 18, 1966.

[10] This problem is addressed particularly in a companion memorandum (FCC Mimeo No. 91928) regarding traffic with the Caribbean area.

22. The other carriers appear in essence to accept the position that Comsat should have a substantial interest in the earth stations under any joint ownership plan. The primary concern of each is, however, that it also have a relatively sizable investment and ownership interest. In fact, the failure of the ad hoc policy committee to reach agreement resulted primarily from the desire of each carrier for an investment percentage in excess of that available, if the requests of the other carriers were to be fully satisfied. We understand the interest of the carriers and that their desire to maximize their investment reflects confidence in the new satellite technology and support for the national policy. We also understand their evident desire to maximize investment as a basis for the opportunity to earn a fair return on capital devoted to public service. However, since it is impossible to assign to each carrier the percentage share it desires, it is essential that we devise and apply a reasonable and logical formula to apportion the shares to each of the carriers on the basis of which each may be permitted to invest. We find that the most logical and equitable formula is one under which ownership is reasonably related to use. Any major departure from this principle would, in essence, mean that a carrier ready, willing and able to pay for facilities which it actually requires to handle traffic would be required to lease them from a second carrier. The sole function of the second carrier would be that of the investor in facilities on which such second carrier would realize a return at the expense of the first carrier user. In this connection we note that in our TAT–4 decision we stated that in the future we would expect ownership in cables to reflect the use made by the various carriers.

23. As indicated, we believe that the ownership related to use standard should apply to satellite earth stations in principle. However, in the satellite field we are entering a new era where current use may not be indicative of future use and where the effects of our decision with respect to alternate voice/data leased channels are not fully apparent. Accordingly, we believe that for the interim period of the policy we are adopting herein, due regard should be had for these factors in fixing the shares of each of the carriers. With this in mind we have reviewed the shares of traffic of each of the carriers, the facilities required to handle such traffic, the reasonable projections for the future and the revenues derived from traffic. It appears that a distinction must be made between stations in the conterminous States where AT&T is a major user and those in Hawaii and Puerto Rico where AT&T does not operate. Accordingly, separate quotas for ownership are being set up respectively for the earth stations in the conterminous States, in Hawaii and in the Puerto Rico-Virgin Islands area. On the basis of all the foregoing we have computed the shares which we believe to be reasonably related to actual use for the duration of the policy we are adopting herein.

QUOTAS FOR OWNERSHIP

| Company | Conterminous States | Hawaii | Puerto Rico-Virgin Islands |
|---|---|---|---|
| | *Percent* | *Percent* | *Percent* |
| Comsat | 50.0 | 50.0 | 50.0 |
| AT&T | 28.5 | | |
| Hawaiian Telephone | | 30.0 | |
| ITTPR-ITTVI | | | 30.0 |
| ITT | 7.0 | 6.0 | 11.5 |
| RCAC | 10.5 | 11.0 | 4.0 |
| WUI [1] | 4.0 | 3.0 | [1] 4.5 |

[1] Western Union International being assigned the share which should accrue to it for Puerto Rico traffic handled by its correspondent cable company, Cables & Wireless, Ltd. (West Indies).

24. The above quotas constitute our best judgment based on careful analysis of the pertinent factors, and we expect them to reasonably reflect the future situation. But we recognize that they should not be regarded as fixed and immutable precisely because they involve projections for the future, relating the shares of carrier ownership reasonably to the use made by each of the joint carrier owners of the facilities in question. The quotas are therefore subject to revision, in the light of experience gained, and will be expressly subject to reexamination and possible readjustment on the basis of the data submitted to us as referred to in paragraphs 31 and 32, infra.

25. As we have noted, there is a definite need for centralizing control of the earth stations in a single entity to assure efficient operation of the entire complex as a unit. Comsat believes most strongly that it should be the entity assigned the responsibility because of its statutory position, its obligations with respect to the satellite system, its position as an entity which has no interests other than satellites, and its general position as manager for the international consortium. None of the other carriers has raised any serious objection to assigning such responsibility to Comsat if there is joint ownership. We believe that the proposal made is appropriate and will best serve the interests of all carriers concerned, as well as the interest of the using public. Accordingly, our policy herein is premised on Comsat's serving as manager of the earth stations subject to overall control and guidance on basic policy and investment matters by an appropriate entity composed of all owners (herein called committee for the sake of convenience).

26. The joint owners should reach mutual agreement as to the exact functions of the committee and submit the agreement to the Commission, in connection with any application filed pursuant to this interim policy. We would expect the committee to be concerned with formulating overall policy and deciding on major investments, types of major equipment and location of new stations, and the establishment of arrangements for the day-to-day operations of the stations. It will also be concerned with the establishment of policies which will govern the coordination by Comsat of earth station operations and the settlement among members of operating revenues and costs, including amortization and taxes. Voting in the committee should be in accordance with actual investment, i.e., the ratio of the individual member's investment in earth stations to the total investment of all members in all stations. Each joint user shall pay his proportionate share of the necessary funds required to cover the cost of construction. Upon assignment of the existing stations to the joint owners, payment shall be made to Comsat by each carrier of its proportionate share of the original cost less accumulated depreciation.

27. Present tariff charges of Comsat cover an offering of service encompassing the use of the earth station, as well as access to the satellite since such tariffs are predicated upon total ownership of the earth stations by Comsat. The interim policy which we have set forth herein will require a reexamination of the current tariff structure in light of the changed ownership of the earth stations. It will be necessary to accommodate the fact that there will be different groups of owners of earth stations in the conterminous United States, in Hawaii and in Puerto Rico. This, of course, could be accomplished by two series of tariffs—one covering the offering by Comsat of access to the satellite by earth stations, and the other covering the offering of services of the earth stations by Comsat and its partners. These matters will also be the subject of consideration by the committee. It is our expectation, however, that any revision in tariff structure as may evolve will not initially result in charges for use of satellite facilities by authorized carriers or other entities whom Comsat may be authorized to serve directly in excess of the current composite charge of Comsat for the services of the earth station and access to the satellite.

28. The Commission is deeply concerned that steps be taken promptly to plan, construct, and make available for service, additional stations in the southeastern and southwestern parts of the United States so that efficient service may be provided through the satellites which will be placed into orbit in the relatively near future. We recognize that problems exist with respect to the proposed sites for such earth stations. Accordingly, in view of the policy adopted herein, we direct that the joint owners shall, no later than 60 days from the date when this report is released, file agreed upon applications for earth stations at appropriate sites in the southeastern [11] and southwestern United States. We are certain that if the interested carriers and Comsat exert the proper effort, sites will be found which are properly located, do not cause or receive harmful interference to or from terrestrial services, and

[11] In selecting the most suitable southeastern earth station site it is assumed that consideration will be given to all sites proposed during recent ad hoc technical committee meetings.

may be used efficiently and effectively as part of the global system which national policy requires to become operable at the earliest practicable moment.

29. We also expect that within 60 days after this report, Comsat and the other authorized carriers will file appropriate applications to transfer ownership of the three existing stations at Andover, Maine, Brewster Flat, Wash., and Paumalu, Hawaii to the joint owners in accordance with the quotas set forth in paragraphs 2–3 above.

30. As has been set forth in our memorandum opinion adopted this date, providing for the grant of cable landing licenses and certification pursuant to section 214 of the Communications Act, the Commission is of the opinion that the public interest will be served by a grant of both the pending applications for authority to install, construct, and operate a cable between the United States and the Virgin Islands, as well as by the construction and operation of an earth station in either the Virgin Islands or Puerto Rico. We are aware of the serious objections made on behalf of the U.S. Government by the Director of Telecommunications Management to the sites specified in the applications for earth stations presently on file with the Commission.[12] In view of this and in view of the policy adopted herein, we direct that within 90 days after the release of this report the entities whom we have indicated may apply to own and operate such earth station shall file an appropriate application therefor, taking into account the objections raised by the Director of Telecommunications Management, and meeting all public interest standards.

31. Despite the rapid progress made, the development of satellite communications is still in its early stages. As set forth in paragraph 24 supra, we do not believe we should now adopt policies or make allocations of ownership shares of earth stations which are designed to be permanent. On the other hand, we recognize that reasonable time must be allowed for both the interested carriers and Comsat on the one hand, and the Commission, on the other hand, to have the benefits of actual operating experience under the policy enunciated herein. We are also aware that the interim agreements for the establishment of a global system are subject to renegotiation during 1969. Accordingly, in order to provide the necessary time for operating experience and for the Commission to become aware of exactly what the status of the agreements for the global system will be, we propose that the policy set forth herein shall remain in effect until the end of 1969 unless revised or amended for good cause because of new developments. In late 1969 it will be subject to review in the light of experience gained and then-existing conditions. As we stated in our initial interim policy with respect to our initial policy statement on earth station ownership, it is our intention that no prejudice or benefit shall result to the position of any legal, competent entity from the interim policy adopted herein.

32. In order that we may be in a position to properly evaluate the experience gained from joint operation of the earth stations, we believe that, no later than July 1, 1969, the joint owners of the stations should begin a review of their operating experience and make such recommendations to us as appear appropriate to them in respect to this interim policy no later than October 1969.

Accordingly, pursuant to the authority contained in sections 201(c)(7) and 201(c)(11) of the Communications Satellite Act of 1962 and sections 4(i) and 4(j) and 303 of the Communications Act of 1934, as amended;

*It is ordered,* This 7th of December 1966, that the policy governing the issuance of authorizations for communications satellite earth stations set forth in our order, Docket No. 15735, in the matter of amendment of Part 25 of the Commission's rules and regulatons with respect to ownership and operation of initial earth stations in the United States for use in connection with the proposed global commercial communication-satellite system, released May 13, 1965, as well as in the memorandum opinion and order in that same docket, released February 25, 1966, are modified to reflect the policies adopted herein.

Released: December 8, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[13]
[SEAL] BEN F. WAPLE,
*Secretary.*

[F.R. Doc. 66-13348; Filed, Dec. 13, 1966; 8:45 a.m.]

[12] Problems, if any, associated with the most recent Comsat Puerto Rico application have not yet been evaluated.

[13] Commissioner Bartley absent and Commissioner Johnson concurring in the result.

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[Docket No. 16385; FCC 66-1112]

## PART 89—PUBLIC SAFETY RADIO SERVICES

## PART 91—INDUSTRIAL RADIO SERVICES

## PART 93—LAND TRANSPORTATION RADIO SERVICES

### Requirement of Evidence of Frequency Coordination With Certain Applications Involving Modifications of Facilities

*Report and order.* 1. On December 27, 1965, the Commission issued a notice of proposed rule making in the above-entitled matter which was published in the FEDERAL REGISTER on December 31, 1965 (30 F.R. 17172). The time for filing comments and reply comments expired on February 7, 1966, and on March 1, 1966, respectively. Comments were filed by State of Colorado; Forest Industries Radio Communications Association (FIRC); State Highway Commission of Kansas; Forestry, Conservation Communications Association (FCCA); city of San Diego; Associated Public-Safety Communications Officers, Inc. (APCO); Central Committee on Communication Facilities of the American Petroleum Institute (API); Association of American Railroads (AAR); National Committee for Utilities Radio (NCUR); American Trucking Associations, Inc. (ATA); NAM Communications Committee (NAM); Special Industrial Radio Service Association, Inc. (SIRSA); Land Mobile Communications Section of the Electronic Industries Association (EIA); and the American Association of State Highway Officials (AASHO). No reply comments were filed.

2. In the notice, the Commission proposed to amend the rules governing the Public Safety, Industrial, and Land Transportation Radio Services to require that evidence of prior frequency coordination be submitted with applications for modification of existing facilities involving any (1) increase in specified power; (2) increase in antenna height; (3) change in station location, including the location of the antenna; or (4) addition of a base station within the licensee's existing area of operation. In the Industrial and Land Transportation Radio Services, only applicants for new stations are required to file evidence of prior frequency coordination. In the Public Safety Radio Services prior coordination is required with applications to increase power and antenna height and to change a station location (items (1), (2), and (3) above). The proposal would make the prior coordination requirements uniform in all of the coordinated land mobile radio services.

3. All comments recognized the need for the proposed rules. They pointed out that uncoordinated expansion of authorized systems often frustrates serious coordination efforts when a new licensee, after obtaining coordination, initiates operations on a saturated channel which appeared otherwise in the frequency coordinator's records. Others claimed that uncoordinated expansion of a system often results in avoidable interference to other systems and sometimes to adjacent systems of the same licensee. All agreed that the proposed rules, in general, would result in better engineering of mobile systems and the more efficient use of the available frequencies in the private land mobile service.

4. Although all who commented agreed with the proposed rules in general, some disagreed with some of the specific proposals. AAR suggested that no prior coordination should be required for applications to increase the height of the antenna, if the proposed new height would not exceed 100 feet. NCUR felt that applications proposing antenna height increases of 25 feet or less should not be coordinated. Both AAR and NCUR felt that in these situations the increased interference potential would not be significant enough to warrant the additional workload for frequency coordinators and the applicants. We disagree. While a relatively small increment in the antenna height of a station may not increase the interference potential of the station substantially enough, the suggestions of AAR and NCUR are

not limited to such changes. For example, AAR would not require prior coordination if a licensee were to raise the height of a 20 foot antenna to 100 feet in which case the coverage of the station would more than double. Thus, we think that although our proposal might result in unnecessary coordination in a few cases, it would result in better and more accurate records for the frequency coordinators to enable them to recommend frequency assignments more efficiently.[1] The same requirement has been in existence in the Public Safety Radio Services for nearly 3 years and none of those who commented from Public Safety organizations indicated any problem with it. Thus, the suggestions of AAR and NCUR are not adopted.

5. APCO agreed with our proposals, but discussed at some length the manner in which the power of a station is stated and authorized in the land mobile services and restated its suggestions made in Docket 15161 that the authorized power for land mobile stations should be in terms of effective radiated power rather than in terms of power input. NCUR pointed out that most applicants in the Industrial Radio Service ask for and are authorized the maximum power permitted by the rules so that the requirement for coordinating applications for power increase in these services would not be meaningful.

6. The method of authorizing power, whether by effective radiated power or some other method, rather than input, is not within the scope of this proceeding. The rules now state the permissible power in terms of input and we did not propose any changes in those rules. However, we recognize the problem discussed by APCO and the staff is considering it. It is also being considered by the Advisory Committee for the Land Mobile Radio Services. Therefore, we expect to review this matter in the future and make whatever determinations seem appropriate.

7. However, we think that current practices for requesting and authorizing power should be modified. In the Land Transportation and Industrial Radio Services applicants usually apply for and are authorized the maximum power permitted by the rules. In the Public Safety Radio Services applicants are required to apply for the actual power they need, but we authorize twice the amount requested. The purpose of these practices was to reduce the application workload of licensees and the Commission by permitting licensees to increase the power of their stations (up to certain limits), if they need to, without having to apply for an authorization.

8. It has become increasingly clear, however, as evidenced by the comments in this proceeding, that efficient utilization of the available frequencies requires that licensees use the minimum power necessary[2] and that the records of the Commission and of the frequency coordinators accurately reflect the actual power used. Therefore, we will change the current practices and will require all applicants in the Public Safety, Industrial, and Land Transportation Radio Services to apply for only the power they would need, and we will authorize that particular power. Subsequent increases of power of a station will require prior Commission authorization and applications therefor must be accompanied by evidence of coordination. This would increase the application workload somewhat but should result in the better administration of frequency usage. Appropriate language has been included in the rules. The new practice will become effective 60 days after the effective date of this order.

9. AAR suggested various changes in the language of the proposed rule for greater clarity. Some of these suggestions have been included in the rules we have adopted.

10. In view of the foregoing, we find that the public interest, convenience and necessity will be served by adopting the amendments of the rules as shown below.

11. *Accordingly, it is ordered,* That, effective February 15, 1967, Parts 89, 91, and 93 are amended as shown below, and that this proceeding is hereby terminated. Authority for the amendments is contained in section 4(i) and 303 of the Communications Act of 1934, as amended.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: December 7, 1966.
Released: December 9, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
*Secretary.*

1. In § 89.15 of the Commission's rules, paragraphs (a), (b), and (c) are amended to read:

**§ 89.15 Frequency coordination procedures.**

(a) Except for applications from States requesting frequencies in accordance with a geographical assignment plan, applications in the Special Emergency Radio Service, and applications requesting assignment of frequencies in the 27.23–27.28 Mc/s band or frequencies above 470 Mc/s, the following applications shall be accompanied by information required by either paragraph (b) or (c) of this section:

(1) Requests for assignment of a new frequency; or

(2) Requests to change existing facilities by increasing the authorized power input, or raising the authorized height of the antenna, or moving the authorized station location (including the antenna), or by adding a base station within the licensee's existing area of operation.

(b) (1) A statement that all existing licensees located within a radius of 75 miles of the location of the station and authorized to operate on frequencies within 30 kc/s of the frequency or frequencies assigned or requested have been notified of the applicant's intention to file his application; and

(2) A report, based on a field study covering the area within a radius of 75 miles of the location of the station, indicating the probable interference to existing stations authorized to operate within 30 kc/s of the frequency or frequencies requested or assigned.

(c) A statement from a frequency advisory committee commenting upon the frequency or frequencies requested or the proposed changes in the authorized station and giving the opinion of the committee regarding the probable interference of the proposal to existing stations. Where the frequency or frequencies requested or assigned are within 30 kc/s of a frequency which is available to another radio service, and is assignable only after coordination, the Committee's statement shall affirmatively show that coordination with a similar committee for the other service has been accomplished; or, in lieu thereof, that all licensees in the other service within 75 miles of the location of the station operating on the frequency requested or assigned have been notified of the applicant's intention to file the application. The committee's statements should, where feasible, also include comments regarding technical factors such as power, antenna height, and characteristics which may serve to mitigate any contemplated interference situation. The frequency advisory committee may be so organized as to be representative of all persons who are eligible for radio facilities in the service concerned in the area the committee purports to serve. The functions of frequency advisory committees are purely advisory in character; their comments are not binding upon either the applicant or the Commission; and must not contain statements which would imply that frequency advisory committees have any authority to grant or deny applications.

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2. In § 89.111 paragraph (a) is amended by adding a note at the end thereof to read:

**§ 89.111 Power and antenna height.**

(a) * * *

NOTE: Applications for authorizations filed on or after April 17, 1967, must specify no more power than the actual power necessary for satisfactory operation.

* * * * *

3. In § 91.8 paragraph (a) is amended to read:

**§ 91.8 Policy governing the assignment of frequencies.**

(a) The frequencies which normally may be assigned to stations in any one of the several Industrial Radio Services are listed in the applicable subpart of

[1] Primarily for aeronautical hazard considerations, licensees must first apply for and obtain Commission authorization before increasing the height of their antennas. The additional requirement imposed here is to coordinate such applications.

[2] The rules require licensees to use no more power than the minimum necessary for satisfactory operation. See §§ 81.111(a), 91.106 (a), and 93.106(a).

[3] Commissioners Bartley and Wadsworth absent.

this part. All licenses of stations in these services shall cooperate in the use of the frequencies assigned in order to minimize interference, and thereby obtain the most effective use of the authorized facilities. Each frequency or band of frequencies listed in this part is available on a shared basis only and will not be assigned for the exclusive use of any one licensee. The use of any frequency may be restricted as to specified geographical areas, maximum power, or such other operating conditions contained in this part or in the station authorization. Except for applications listed in subparagraph (1) of this paragraph, each application for assignment of a new frequency or to change existing facilities by increasing the authorized power input, or raising the height of the antenna, or moving the authorized station location (including the location of the antenna), or by adding a base station within the licensee's existing area of operation shall be accompanied by evidence of frequency coordination in the form set forth either in subparagraph (2) or (3) of this paragraph:

(1) The following applications need not be accompanied by evidence of frequency coordination:

(i) Any application involving a Federal Government frequency.

(ii) Any application involving a frequency allocated primarily for industrial, scientific, and medical purposes.

(iii) Any application involving a frequency in the 72–76 Mc/s band.

(iv) Any application involving a frequency below 25 Mc/s.

(v) Any application involving a frequency above 470 Mc/s.

(vi) Any application involving a frequency assignment on a developmental basis only.

(vii) Any application in the Business Radio Service, where the frequency involved and both immediately adjacent frequencies are available for assignment in that service.

(2) A report, based on a field study, indicating the degree of probable interference to existing stations operating in the same area. The report shall consider all stations operating on the frequency requested or assigned within 75 miles of the location of the station, and all stations operating on any adjacent frequency 15 kc/s or less and within 35 miles of the location of the station. Further, the applicant shall submit a written and signed statement that all existing licensees within the frequency and mileage limits contained in this subparagraph have been notified of the applicant's intention to file his application.

(3) A statement from a frequency advisory committee recommending the specific frequency which in the opinion of the committee will result in the least amount of interference to existing stations operating in the particular area or commenting on the proposed changes in the station. The frequency advisory committee must be so organized that it is representative of all persons who are eligible for radio facilities in the service concerned in the area the committee purports to serve. The committee's recommendations may appropriately include comments on other technical factors such as power, antenna height and characteristics which may serve to mitigate any contemplated interference situation. The functions of such committees are purely advisory in character, and their recommendations cannot be considered as binding upon either the applicant or the Commission.

* * * * *

4. In § 91.106 paragraph (a) is amended by adding a note at the end thereof to read:

**§ 91.106 Power and antenna height.**

(a) * * *

NOTE: Applications filed on or after April 17, 1967, must specify no more power than the actual power necessary for satisfactory operation.

* * * * *

5. In § 93.9 paragraph (a) is amended to read:

**§ 93.9 Frequency coordination.**

(a) Except for applications listed in subparagraph (1) of this paragraph, each application for assignment of a new frequency, or to change existing facilities by increasing the authorized power input, or raising the height of the station antenna, or moving the authorized station location (including the location of the antenna), or by adding a base station within the licensee's existing area of operation shall be accompanied by evidence that the applicant is aware of and has complied with the requirement that he cooperate with other licensees in the selection of a frequency. Evidence of frequency coordination may be submitted in the form set forth either in subparagraph (2), (3), or (4) of this paragraph:

(1) The following applications need not be accompanied by evidence of frequency coordination:

(i) Any application involving a frequency assignment on a developmental basis only.

(ii) Any application involving a frequency or frequencies not in the 30–50, 150.8–162, or 450–470 Mc/s bands.

(2) A statement, including an engineering survey if necessary, which sets forth the technical and other considerations in support of the selection of the particular frequency or the proposed changes in the authorized station and a statement indicating that the applicant has notified the licensees of all known stations in the same or other services located within the local interference range of the proposed station location and operating on any frequency 15 kc/s or less from the frequency used or proposed to be used by the applicant, of the applicant's intention to file his application.

(3) A statement from a local frequency advisory committee of users suggesting a specific frequency which in its opinion would result in the least interference to existing stations in the area by the proposed station, or commenting upon the proposed changes in the authorized station. In the event the frequency recommended is not in the frequency band desired by the applicant, the committee should also indicate a frequency in the band desired by the applicant which in its opinion would result in the least amount of interference and would therefore appear to be most suitable. The committee's statement may appropriately include comments on other technical factors such as power, antenna height, and other limitations which may serve to mitigate any possible interference. The frequency advisory committee must be so organized that it is representative of the industry eligible for radio facilities in the service concerned in the area in which the committee functions and for which recommendations are made.

(4) A recommendation from a frequency coordinating committee or other appropriate representative of a national association composed of a majority of persons eligible for radio facilities in the particular service involved.

(5) Any recommendations submitted in accordance with subparagraph (3) or (4) of this paragraph are purely advisory in character and are not binding either on the applicant or the Commission.

* * * * *

6. In § 93.106 paragraph (a) is amended by adding a note at the end thereof to read:

**§ 93.106 Power and antenna height.**

(a) * * *

NOTE: Applications filed on or after April 17, 1967, must specify no more power than the actual power necessary for satisfactory operation.

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[F.R. Doc. 66–13395; Filed, Dec. 13, 1966; 8:47 a.m.]

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[Docket No. 16780; FCC 66–1113]

## PART 93—LAND TRANSPORTATION RADIO SERVICES

### Subpart H—Railroad Radio Service

LICENSING OF UNATTENDED STATIONS USED IN CONJUNCTION WITH RIGHT-OF-WAY SAFETY INSPECTION DEVICES

*Report and order.* In the matter of amendment of Part 93, Subpart H, Railroad Radio Service, § 93.357, of the Commission's rules to provide for the licensing, on a regular basis, of unattended stations used in conjunction with right-of-way safety inspection devices; Docket No. 16780, RM–469.

1. The Commission's proposal in this proceeding was aimed at a wider and more effective use of radio by American railroads, in the public interest. It was designed specifically to improve the measure of safety and efficiency of railroading by allowing railroads to use automatic, unattended, transmitting devices for detection of "hot boxes," that is, overheated journals, and other unsafe or malfunctioning equipment on railroad rolling stock.

2. This proceeding commenced with the adoption of a notice of proposed rule