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Office of the General Counsel

B-278773

December 16, 1997

The Honorable John McCain  
Chairman  
The Honorable Ernest F. Hollings  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Thomas J. Bliley, Jr.  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Commerce  
House of Representatives

Subject: Federal Communications Commission: Non-U.S.-Licensed Satellites  
Providing Domestic and International Service in the United States

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC), entitled "Non-U.S.-Licensed Satellites Providing Domestic and International Service in the United States" (IB Docket No. 96-111; CC Docket No. 93-23; FCC 97-399). We received the rule on December 3, 1997. It was published in the Federal Register as a final rule on December 4, 1997. 62 Fed. Reg. 64167.

The final rule adopts a new standard for foreign participation in the U.S. satellite services market consistent with the United States' obligation under the World Trade Organization Agreement on Basic Telecommunications Services (Agreement). The procedures will provide opportunities for foreign entities to deliver satellite services here, and the liberalized market conditions resulting from the Agreement will allow U.S. companies to enter previously closed markets.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FCC complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Federal Communications Commission is John Anderson, Director of Transportation Issues. Mr. Anderson can be reached at (202) 512-2834.

Robert P. Murphy  
General Counsel

Enclosure

cc: Mr. Peter W. Herrick  
AMD-Performance Evaluation and  
Records Management  
Federal Communications Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY  
THE FEDERAL COMMUNICATIONS COMMISSION  
ENTITLED  
"NON-U.S.-LICENSED SATELLITES PROVIDING DOMESTIC  
AND INTERNATIONAL SERVICE IN THE UNITED STATES"  
(IB Docket No. 96-111; CC Docket No. 93-23; FCC 97-399)

(i) Cost-benefit analysis

The FCC, in its report to our Office, states that it was not required to prepare and did not prepare a cost-benefit analysis of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The FCC prepared both an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis, which appeared in the preambles to the proposed rule and the final rule, respectively.

The analyses describe the reason for the rule and the legal basis for it. They also include descriptions of the number of small entities affected by the rule; discussions of the recordkeeping, reporting, and other compliance requirements; and the steps taken to minimize the burdens on small entities.

In the Final Regulatory Flexibility Analysis, the FCC finds that there will be no economic impact on small businesses. No additional burdens are being imposed on foreign-licensed systems, large or small, because the FCC will apply the same rules that have been applied to U.S. licensed systems.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the FCC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was promulgated using the notice and comment procedures contained in 5 U.S.C. § 553. The FCC published a Notice of Proposed Rulemaking in the

Federal Register on June 24, 1996. 61 Fed. Reg. 32398. Following the conclusion of negotiations of the Agreement, the FCC revised its proposed rule and published a Further Notice of Proposed Rulemaking on July 29, 1997. 62 Fed. Reg. 40494. The FCC received more than 100 comments from parties in the United States and overseas, which were considered in the issuance of the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains a modification of a previously approved information collection requirement under the Paperwork Reduction Act.

The preamble to the final rule sets forth the information required by the act, including the need and use of the information, the estimated number of respondents, and the annual burden hours imposed.

The information will be used to evaluate the legal, technical, and financial ability of the applicants requesting authority to operate. It is estimated that there will be 1,310 respondents and the burden hours vary from 11 to 24 hours per response depending on the type of authorization requested. The total cost of compliance with the information collection is estimated to be \$5.8 million.

No information will be collected and no party need respond until the collections are approved by the Office of Management and Budget and a control number is issued. The FCC will publish a notice in the Federal Register when such approval is granted.

Statutory authorization for the rule

The final rule is issued pursuant to the authority contained in sections 1, 2, 4(i), 303(r), 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 303(r), 308, 309, and 310.

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order No. 12866.