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Effective: February 08, 1996

UNITED STATES CODE ANNOTATED
TITLE 47. TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS
CHAPTER 5--WIRE OR RADIO COMMUNICATION
SUBCHAPTER I--GENERAL PROVISIONS
§ 154. Federal Communications Commission

(a) Number of commissioners; appointment

The Federal Communications Commission (in this chapter referred to as the "Commission") shall be composed of five commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom the President shall designate as chairman.

(b) Qualifications

(1) Each member of the Commission shall be a citizen of the United States.

(2)(A) No member of the Commission or person employed by the Commission shall--

(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this chapter;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of [section 208 of Title 18](#). The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without

excluding other relevant factors)--

(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

(D) the perceptions held by the public regarding the business activities of such company or other entity.

(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

(5) The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.

(c) Terms of office; vacancies

commissioners [\[FN1\]](#) shall be appointed for terms of five years and until their successors are appointed and have been confirmed and taken the oath of office, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office; except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds. No vacancy in the Commission shall impair the right of the remaining commissioners to exercise all the powers of the Commission.

(d) Compensation of Commission members

Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.

(e) Principal office; special sessions

The principal office of the Commission shall be in the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States.

(f) Employees and assistants; compensation of members of Field Engineering and Monitoring Bureau; use of amateur volunteers for certain purposes; commercial radio operator examinations

(1) The Commission shall have authority, subject to the provisions of the civil-service laws and chapter 51 and subchapter III of chapter 53 of Title 5, to appoint such officers, engineers, accountants, attorneys, inspectors, examiners, and other employees as are necessary in the exercise of its functions.

(2) Without regard to the civil-service laws, but subject to chapter 51 and subchapter III of chapter 53 of Title 5, each commissioner may appoint three professional assistants and a secretary, each of whom shall perform such duties as such commissioner shall direct. In addition, the chairman of the Commission may appoint, without regard to the civil-service laws, but subject to chapter 51 and subchapter III of chapter 53 of Title 5, an administrative assistant who shall perform such duties as the chairman shall direct.

(3) The Commission shall fix a reasonable rate of extra compensation for overtime services of engineers in charge and radio engineers of the Field Engineering and Monitoring Bureau of the Federal Communications Commission, who may be required to remain on duty between the hours of 5 o'clock postmeridian and 8 o'clock antemeridian or on Sundays or holidays to perform services in connection with the inspection of ship radio equipment and apparatus for the purposes of part II of subchapter III of this chapter or the Great Lakes Agreement, on the basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from 5 o'clock postmeridian to 8 o'clock antemeridian) and two additional days' pay for Sunday or holiday duty. The said extra compensation for overtime services shall be paid by the master, owner, or agent of such vessel to the local United States collector of customs or his representative, who shall deposit such collection into the Treasury of the United States to an appropriately designated receipt account: *Provided*, That the amounts of such collections received by the said collector of customs or his representatives shall be covered into the Treasury as miscellaneous receipts; and the payments of such extra compensation to the several employees entitled thereto shall be made from the annual appropriations for salaries and expenses of the Commission: *Provided further*, That to the extent that the annual appropriations which are authorized to be made from the general fund of the Treasury are insufficient, there are authorized to be appropriated from the general fund of the Treasury such additional amounts as may be necessary to the extent that the amounts of such receipts are in excess of the amounts appropriated: *Provided further*, That such extra compensation shall be paid if such field employees have been ordered to report for duty and have so reported whether the actual inspection of the radio equipment or apparatus takes place or not: *And provided further*, That in those ports where customary working hours are other than those hereinabove mentioned, the engineers in charge are vested with authority to regulate the hours of such employees so as to agree with prevailing working hours in said ports where inspections are to be made, but nothing contained in this proviso shall be construed in any manner to alter the length of a working day for the engineers in charge and radio engineers or the overtime pay herein fixed: and *Provided further*, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph.

(4)(A) The Commission, for purposes of preparing or administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class of license for which the examination is being prepared or administered. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

(B)(i) The Commission, for purposes of monitoring violations of any provision of this chapter (and of any regulation prescribed by the Commission under this chapter) relating to the amateur radio service, may--

(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

(II) accept and employ the voluntary and uncompensated services of such individual.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to--

(I) the detection of improper amateur radio transmissions;

(II) the conveyance to Commission personnel of information which is essential to the enforcement of this chapter (or regulations prescribed by the Commission under this chapter) relating to the amateur radio service; and

(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this chapter (or regulations prescribed by the Commission under this chapter) relating to

the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

(C)(i) The Commission, for purposes of monitoring violations of any provision of this chapter (and of any regulation prescribed by the Commission under this chapter) relating to the citizens band radio service, may--

(I) recruit and train any citizens band radio operator; and

(II) accept and employ the voluntary and uncompensated services of such operator.

(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to--

(I) the detection of improper citizens band radio transmissions;

(II) the conveyance to Commission personnel of information which is essential to the enforcement of this chapter (or regulations prescribed by the Commission under this chapter) relating to the citizens band radio service; and

(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this chapter (or regulations prescribed by the Commission under this chapter) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

(D) The Commission shall have the authority to endorse certification of individuals to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services (as defined by the Commission by rule) if such certification programs are conducted by organizations or committees which are representative of the users in those services and which consist of individuals who are not officers or employees of the Federal Government.

(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of Title 5 or [section 1342 of Title 31](#).

(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

(G) The Commission, in accepting and employing services of individuals under subparagraphs (A) and (B), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.

(I) With respect to the acceptance of voluntary uncompensated services for the preparation, processing, or

administration of examinations for amateur station operator licenses pursuant to subparagraph (A) of this paragraph, individuals, or organizations which provide or coordinate such authorized volunteer services may recover from examinees reimbursement for out-of-pocket costs.

(5)(A) The Commission, for purposes of preparing and administering any examination for a commercial radio operator license or endorsement, may accept and employ the services of persons that the Commission determines to be qualified. Any person so employed may not receive compensation for such services, but may recover from examinees such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person.

(B) The Commission may prescribe regulations to select, oversee, sanction, and dismiss any person authorized under this paragraph to be employed by the Commission.

(C) Any person who provides services under this paragraph or who provides goods in connection with such services shall not, by reason of having provided such service or goods, be considered a Federal or special government employee.

(g) Expenditures

(1) The Commission may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for office supplies, law books, periodicals, and books of reference, for printing and binding, for land for use as sites for radio monitoring stations and related facilities, including living quarters where necessary in remote areas, for the construction of such stations and facilities, and for the improvement, furnishing, equipping, and repairing of such stations and facilities and of laboratories and other related facilities (including construction of minor subsidiary buildings and structures not exceeding \$25,000 in any one instance) used in connection with technical research activities), as may be necessary for the execution of the functions vested in the Commission and as may be appropriated for by the Congress in accordance with the authorizations of appropriations established in [section 156](#) of this title. All expenditures of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees, under their orders, in making any investigation or upon any official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission or by such other member or officer thereof as may be designated by the Commission for that purpose.

(2)(A) If--

(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

(ii) such attendance and participation are in furtherance of the functions of the Commission; and

(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting;

then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1994.

(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.

(3)(A) Notwithstanding any other provision of law, in furtherance of its functions the Commission is authorized to accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property (including voluntary and uncompensated services, as authorized by [section 3109 of Title 5](#)).

(B) The Commission, for purposes of providing radio club and military-recreational call signs, may utilize the voluntary, uncompensated, and unreimbursed services of amateur radio organizations authorized by the Commission that have tax-exempt status under [section 501\(c\)\(3\) of Title 26](#).

(C) For the purpose of Federal law on income taxes, estate taxes, and gift taxes, property or services accepted under the authority of subparagraph (A) shall be deemed to be a gift, bequest, or devise to the United States.

(D) The Commission shall promulgate regulations to carry out the provisions of this paragraph. Such regulations shall include provisions to preclude the acceptance of any gift, bequest, or donation that would create a conflict of interest or the appearance of a conflict of interest.

(h) Quorum; seal

Three members of the Commission shall constitute a quorum thereof. The Commission shall have an official seal which shall be judicially noticed.

(i) Duties and powers

The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions.

(j) Conduct of proceedings; hearings

The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest. Any party may appear before the Commission and be heard in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of any party interested. The Commission is authorized to withhold publication of records or proceedings containing secret information affecting the national defense.

(k) Annual reports to Congress

The Commission shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such reports shall contain--

(1) such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of interstate and foreign wire and radio communication and radio transmission of energy;

(2) such information and data concerning the functioning of the Commission as will be of value to Congress in appraising the amount and character of the work and accomplishments of the Commission and the adequacy of its staff and equipment;

(3) an itemized statement of all funds expended during the preceding year by the Commission, of the sources of such funds, and of the authority in this chapter or elsewhere under which such expenditures were made; and

(4) specific recommendations to Congress as to additional legislation which the Commission deems necessary or desirable, including all legislative proposals submitted for approval to the Director of the Office of Management and Budget.

(l) Record of reports

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier or licensee that may have been complained of.

(m) Publication of reports; admissibility as evidence

The Commission shall provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

(n) Compensation of appointees

Rates of compensation of persons appointed under this section shall be subject to the reduction applicable to officers and employees of the Federal Government generally.

(o) Use of communications in safety of life and property

For the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property, the Commission shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems.

CREDIT(S)

(June 19, 1934, c. 652, Title I, § 4, 48 Stat. 1066; Jan. 22, 1936, c. 25, 49 Stat. 1098; May 20, 1937, c. 229, § § 3, 4, 50 Stat. 190; Mar. 23, 1941, c. 24, 55 Stat. 46; July 16, 1952, c. 879, § 3, 66 Stat. 711; Aug. 13, 1954, c. 735, § 2, 68 Stat. 729; June 29, 1960, Pub.L. 86-533, § 1(24), 74 Stat. 249; July 12, 1960, Pub.L. 86-619, § 2, 74 Stat. 407; Sept. 13, 1960, Pub.L. 86-752, § 2, 74 Stat. 889; Aug. 13, 1981, [Pub.L. 97-35, Title XII, § 1251\(b\)](#), 95 Stat. 738; Sept. 8, 1982, [Pub.L. 97-253, Title V, § 501\(b\)\(1\)-\(3\)](#), 96 Stat. 805, 806; Sept. 13, 1982, [Pub.L. 97-259, Title I, § § 102-104](#), 96 Stat. 1087-1089; Dec. 8, 1983, [Pub.L. 98-214, § § 10](#), 11, 97 Stat. 1471; Apr. 7, 1986, [Pub.L. 99-272, Title V, § 5002\(b\)](#), 100 Stat. 118; June 6, 1986, [Pub.L. 99-334, § 1\(a\), 100 Stat. 513](#); Nov. 3, 1988, [Pub.L. 100-594, § 3, 102 Stat. 3021](#); Sept. 28, 1990, [Pub.L. 101-396, § § 3](#), 4, 104 Stat. 848, 849; Oct. 27, 1992, [Pub.L. 102-538, Title II, § § 201](#), 208, 106 Stat. 3542, 3543; Oct. 25, 1994, [Pub.L. 103-414, Title III, § 303\(a\)\(1\)](#), 108 Stat. 4294; Dec. 21, 1995, [Pub.L. 104-66, Title II, § 2051\(b\)](#), 109 Stat. 729; Feb. 8, 1996, [Pub.L. 104-104, Title IV, § 403\(a\), \(b\)](#), 110 Stat. 130.)

[FN1] So in original. Probably should be "Commissioners".

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1949 Acts. Senate Report No. 882 and Conference Report No. 1411, see 1949 U.S.Code Cong. Service, p. 2143.

1952 Acts. House Report No. 1750, see 1952 U.S.Code Cong. and Adm.News, p. 2234.

1954 Acts. House Report No. 2284, see 1954 U.S.Code Cong. and Adm.News, p. 3041.

1960 Acts. House Report No. 1458, see 1960 U.S.Code Cong. and Adm.News, p. 2417.

House Report No. 1917, see 1960 U.S.Code Cong. and Adm.News, p. 2944.

House Report No. 1800, see 1960 U.S.Code Cong. and Adm.News, p. 3516.

1981 Acts. [Senate Report No. 97-139](#) and [House Conference Report No. 97- 208](#), see 1981 U.S.Code Cong. and Adm.News, p. 396.

1982 Acts. [Senate Report No. 97-504](#) and [House Conference Report No. 97- 759](#), see 1982 U.S.Code Cong. and Adm.News, p. 1641.

[House Report No. 97-651](#), see 1982 U.S.Code Cong. and Adm.News, p. 1895.

[Senate Report Nos. 97-191](#) and [97-404](#), and [House Conference Report No. 97-765](#), see 1982 U.S.Code Cong. and Adm.News, p. 2237.

1983 Acts. [House Report No. 98-356](#), see 1983 U.S.Code Cong. and Adm.News, p. 2219.

1986 Acts. [Senate Report No. 99-146](#), [House Report No. 99-241 \(Parts I, II and III\)](#), and a Related Report, see 1986 U.S.Code Cong. and Adm.News, p. 42.

[Senate Report No. 99-263](#) and Statement by President, see 1986 U.S.Code Cong. and Adm.News, p. 1402.

1988 Acts. [Senate Report No. 100-142](#) and Statements by Legislative Leader, see 1988 U.S.Code Cong. and Adm.News, p. 4103.

1990 Acts. House Report No. 101-316, see 1990 U.S.Code Cong. and Adm.News, p. 1294.

1994 Acts. [House Report No. 103-827](#), see 1994 U.S. Code Cong. and Adm. News, p. 3489.

1995 Acts. [House Report No. 104-327](#), see 1995 U.S. Code Cong. and Adm. News, p. 674.

1996 Acts. [House Report No. 104-204](#) and House Conference No. 104-458, see 1996 U.S. Code Cong. and Adm. News, p. 10.

References in Text

Level III and level IV of the Executive Schedule, referred to in subsec. (d) are set out in sections 5314 and 5315 of Title 5, Government Organization and Employees, respectively.

The civil-service laws, referred to in subsec. (f)(1), (2), are classified generally to Title 5. See, particularly, section 3301 et seq. of Title 5.

Part II of subchapter III of this chapter, referred to in subsec. (f)(3), is classified to section 351 et seq. of this title.

For definition of Great Lakes Agreement, referred to in subsec. (f)(3), see section 153(ff) of this title and Great Lakes Agreement note set out under that section.

Provisions of part III of Title 5, referred to in subsec. (f)(4)(E), are classified to section 2101 et seq. of Title 5, Government Organization and Employees.

Codifications

In subsec. (f)(1), (2) "chapter 51 and subchapter III of chapter 53 of Title 5" were substituted for "the Classification of 1949" on authority of Pub.L. 89- 554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

In subsec. (f)(4)(F), "section 1342 of Title 31" was substituted for "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" on authority of [Pub.L. 97-258](#), 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Amendments

1996 Amendments. Subsec. (f)(3). [Pub.L. 104-104, § 403\(b\)](#), added provisions relating to inspections by an entity designated by the Commission.

Subsec. (f)(4)(A). [Pub.L. 104-104, § 403\(a\)\(1\)](#), added "or administering" following "for purposes of preparing", "of" following "than the class", and "or administered" following "for which the examination is being prepared", respectively.

Subsec. (f)(4)(B). [Pub.L. 104-104, § 403\(a\)\(2\), \(5\)](#), redesignated former subpar. (C) as (B), and struck out former subpar. (B), which related to the Commission's acceptance and employment of voluntary and uncompensated services.

Subsec. (f)(4)(C) to (G). [Pub.L. 104-104, § 403\(a\)\(5\)](#), redesignated former subpars. (D) to (H) as (C) to (G), respectively. Former subpar. (C) redesignated (B).

Subsec. (f)(4)(H). [Pub.L. 104-104, § 403\(a\)\(3\)](#), in subpar. (H) prior to redesignation as (G), struck out reference to subpar. (C).

[Pub.L. 104-104, § 403\(a\)\(5\)](#), redesignated former subpar. (I) as (H). Former subpar. (H) redesignated (G).

Subsec. (f)(4)(I). [Pub.L. 104-104, § 403\(a\)\(5\)](#), redesignated former subpar. (J) as (I). Former subpar. (I) redesignated (H).

Subsec. (f)(4)(J). [Pub.L. 104-104, § 403\(a\)\(4\)](#), in subpar. (J) prior to redesignation as (I), struck out reference to subpar. (B) and provisions requiring that the total amount of allowable cost reimbursement per examinee not exceed \$4, adjusted annually every January 1 for changes in the Department of Labor Consumer Price Index.

[Pub.L. 104-104, § 403\(a\)\(5\)](#), redesignated former subpar. (J) as (I).

1995 Amendments. Subsec. (f)(4)(J). [Pub.L. 104-66, § 2051\(b\)](#), struck out provisions relating to records of expenditures and certification that expenditures were necessarily incurred.

1994 Amendments. Subsec. (f)(3). [Pub.L. 103-414, § 303\(a\)\(1\)](#), substituted "overtime extends beyond" for "overtime exceeds beyond".

1992 Amendments. Subsec. (g)(2)(D). [Pub.L. 102-538, Title II, § 201](#), directed that the provisions of par. (2) shall

cease to have force or effect at the end of fiscal year 1994, rather than 1992.

Subsec. (g)(3). [Pub.L. 102-538, Title II, § 208](#), added par. (3).

1990 Amendments. Subsec. (f)(5). [Pub.L. 101-396, § 3](#), added par. (5).

Subsec. (g)(2)(D). [Pub.L. 101-396, § 4](#), substituted "1992" for "1989".

1988 Amendments. Subsec. (g)(2)(D). [Pub.L. 100-594](#) substituted "1989" for "1987".

1986 Amendments. Subsec. (c). [Pub.L. 99-334](#) substituted "five years" for "seven years".

Subsec. (g)(2)(D). [Pub.L. 99-272, § 5002\(b\)\(1\)](#), substituted "1987" for "1985".

Subsec. (g)(2)(E). [Pub.L. 99-272, § 5002\(b\)\(2\)](#), add subpar. (E).

1983 Amendments. Subsec. (f)(4)(E). [Pub.L. 98-214, § 10\(2\)](#), added subpar. (E). Former subpar. (E) was redesignated (F).

Subsec. (f)(4)(F) to (I). [Pub.L. 98-214, § 10\(1\)](#), redesignated subpars. (E) through (H) as (F) through (I), respectively.

Subsec. (f)(4)(J). [Pub.L. 98-214, § 11](#), added subpar. (J).

1982 Amendments. Subsec. (a). [Pub.L. 97-253, § 501\(b\)\(1\)](#), substituted "five" for "seven".

Subsec. (b). [Pub.L. 97-259, § 102](#), designated the existing first sentence, relating to United States citizenship of commissioners, as par. (1), designated the former provisions relating to financial interests of commissioners as par. (2)(A), in (A) as so designated, substituted "telecommunication equipment" for "radio apparatus or of apparatus for wire or radio communication" in cl. (i), "electromagnetic spectrum" for "radio transmission of energy" in cl. (ii), struck out provision relating to financial interest in any company furnishing services or telecommunication apparatus to any company engaged in communication by wire or radio or to any company manufacturing or selling apparatus used for telecommunications and provision forbidding any interest in a company owning securities in a telecommunication company, added cl. (iii) and the provisions following cl. (iv), added subpar. (B) and par. (3), designated provisions excluding commissioners from outside employment as par. (4), adding thereto provision that the restriction applies only during their term of service, struck out provision directing that a commissioner serving after one year from July 16, 1952, could not for a year following termination of service represent anyone before the commission professionally, but that this did not apply to a commissioner having served his full term, and substituted provision that the maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commissioners for provision that not more than four members of the Commission could be members of the same political party.

[Pub.L. 97-253, § 501\(b\)\(2\)](#), amended the provision relating to the political affiliation of members of the Commission to require that the maximum number of commissioners who may be members of the same political party be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission. An identical amendment was made by [Pub.L. 97-259](#).

Subsec. (c). [Pub.L. 97-259, § 103\(a\)](#), struck out "The" before "commissioners" at the beginning of the subsection, immediately thereafter struck out "first appointed under this chapter shall continue in office for the terms of one, two, three, four, five, six, and seven years, respectively, from the date of the taking effect of this chapter, the term of each to be designated by the President, but their successors", and substituted "been confirmed and taken the oath of office" for "qualified".

Subsec. (d). [Pub.L. 97-259, § 103\(b\)](#), added subsec. (d). A prior subsec. (d) relating to compensation of the commissioners had been omitted as obsolete following the passage of the Federal Executive Pay Act of 1956, Act July 31, 1956, c. 804, Title I, § § 101-120, 70 Stat. 736.

Subsec. (f)(2). [Pub.L. 97-259, § 103\(c\)](#), substituted "three professional assistants" for "a legal assistant, an engineering assistant,".

Subsec. (f)(4). [Pub.L. 97-259, § 104](#), added par (4).

Subsec. (g). [Pub.L. 97-259, § 103\(d\)](#), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). [Pub.L. 97-253, § 501\(b\)\(3\)](#), substituted "Three" for "Four".

Subsec. (k)(2). [Pub.L. 97-259, § 103\(e\)](#), struck out the proviso following "its staff and equipment". That proviso, relating to the content of the first and second annual reports following the enactment of the Communications Act Amendments of 1952, had previously been omitted as obsolete and so no change in the text of subsec. (k)(2) of this section was necessary.

Subsec. (k)(3). [Pub.L. 97-259, § 103\(f\)](#), redesignated former par. (4) as (3). Former par. (3), which had required the report to contain information with respect to all persons taken into the employment of the Commission during the preceding year, together with the names of those persons who left the employ of the Commission during the year, was repealed by Pub.L. 86-533, § 1(24), June 29, 1960, 74 Stat. 249.

Subsec. (k)(4). [Pub.L. 97-259, § 103\(f\), \(g\)](#), redesignated par. (5) as (4) and, in par. (4) as so redesignated, substituted "Office of Management and Budget" for "Bureau of the Budget". Former par. (4) redesignated (3).

Subsec. (k)(5). [Pub.L. 97-259, § 103\(f\)](#), redesignated par. (5) as (4).

1981 Amendments. Subsec. (g). [Pub.L. 97-35](#) substituted requirement respecting authorizations under section 156 of this title for provisions respecting appropriations from time to time.

1960 Amendments. Subsec. (b). Pub.L. 86-752 struck out provision that permitted commissioners to accept "reasonable honorarium or compensation" for "the presentation or delivery of publications or papers".

Subsec. (c). Pub.L. 86-619 provided for continuation in office of the commissioners upon termination of their term until their successors are appointed and have qualified, not beyond expiration of next session of Congress subsequent to the expiration of said fixed term of office.

Subsec. (k). Pub.L. 86-533 repealed par. (3), which required the report to contain information with respect to all persons taken into the employment of the Commission during the preceding year, together with the names of those persons who left the employ of the Commission during the year.

1954 Amendments. Subsec. (f)(3). Act Aug. 13, 1954 substituted "engineers" and "Field Engineering and Monitoring Bureau of the Federal Communications Commission" for "inspectors" and "Field Division of the Engineering Department of the Federal Communications Commission", respectively, and extended provisions to include inspections required pursuant to the Great Lakes Agreement.

1952 Amendments. Subsec. (b). Act July 16, 1952, § 3(a), prohibited commissioners from engaging in any other work except that they might present or deliver papers for an honorarium, and prohibited any commissioner from appearing before the Commission in a professional capacity for 1 year after termination of his services except that this prohibition would not apply where commissioner had completed his full term.

Subsec. (f). Act July 16, 1952, § 3(b), allowed the Commission to appoint employees, to allow each commissioner to appoint a legal assistant, an engineering assistant, and a secretary, and to allow the Chairman to appoint an administrative assistant.

Subsec. (g). Act July 16, 1952, § 3(c), authorized Commission to acquire land for monitoring stations and related facilities.

Subsec. (k). Act July 16, 1952, § 3(d), required Commission to make more detailed reports to Congress.

1941 Amendments. Subsec. (f). Act Mar. 23, 1941 designated the existing par. as "(1)", and added par. (2).

1937 Amendments. Subsec. (k). Act May 20, 1937 inserted provisions that the Commission report to Congress annually at the beginning session of the Congress whether new wire or radio communication legislation is necessary and make specific recommendations thereof to Congress.

Subsec. (o). Act May 20, 1937 added subsec. (o).

1936 Amendments. Subsec. (f). Act Jan. 22, 1936 inserted references to a chief accountant and three assistants.

Effective and Applicability Provisions

1986 Acts. Section 1(b) of [Pub.L. 99-334](#) provided that:

The amendment made by subsection (a) of this section [amending subsec. (c) of this section] shall take effect on the date of enactment of this Act [June 6, 1986], except that--

"(1) upon the expiration of the term of office prescribed by law to occur on June 30, 1986, any person appointed as a member of the Federal Communications Commission to fill such office for the term following such date shall be eligible to serve until June 30, 1990, and any person appointed as a member of the Federal Communications Commission to the term of office prescribed by law to expire on June 30, 1987, shall be eligible to serve until June 30, 1989; and

"(2) notwithstanding the provisions of subsection (a) of this section [amending subsec. (c) of this section], persons appointed as members of the Federal Communications Commission to terms of office prescribed by law to expire on June 30, 1988, June 30, 1991, and June 30, 1992, shall be eligible to serve until the expiration of the term of office on June 30, 1988, June 30, 1991, and June 30, 1992, whichever is applicable."

1982 Acts. Section 501(b)(4) of [Pub.L. 97-253](#) provided that: "The amendments made in paragraphs (1), (2), and (3) of this subsection [amending subsecs. (a), (b), and (h), respectively, of this section] shall take effect on July 1, 1983."

1954 Acts. Amendment by Act Aug. 13, 1954 effective Nov. 13, 1954, see section 6 of Act Aug. 13, 1954, set out as an Effective Date note under section 507 of this title.

Termination of Reporting Requirements

For termination of reporting provisions of subsec. (k) of this section, effective May 15, 2000, see [Pub.L. 104-66, § 3003](#), as amended, set out as a note under [31 U.S.C.A. § 1113](#), and the 5th item on page 167 of House Document No. 103-7.

For termination of reporting provisions of subsec. (b)(2)(B)(ii) of this section, effective May 15, 2000, see [Pub.L. 104-66, § 3003](#), as amended, set out as a note under [31 U.S.C.A. § 1113](#), and the 8th item on page 167 of House Document No. 103-7.

For termination of reporting provisions of subsec. (g)(2)(C) of this section, effective May 15, 2000, see [Pub.L. 104-66, § 3003](#), as amended, set out as a note under [31 U.S.C.A. § 1113](#), and the 9th item on page 167 of House Document No. 103-7.

Transfer of Functions

All offices of collector of customs, referred to in subsec. (f)(3), comptroller of customs, surveyor of customs, referred to in subsec. (f)(3), and appraiser of merchandise in the Bureau of Customs of the Department of the Treasury to which appointments were required to be made by the President with the advice and consent of the Senate were ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in Appendix 1 to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in the Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in Appendix 1 to Title 5.

Expiration of Commissioners' Terms

[Pub.L. 97-253, Title V, § 501\(a\)](#), Sept. 8, 1982, 96 Stat. 805, provided that: "Upon expiration of the term of office as a member of the Federal Communications Commission, which is prescribed by law to occur on June 30, 1982, any member appointed to fill such office after such date shall be appointed for a term which ends on June 30, 1983, and such office shall be abolished on July 1, 1983. Upon expiration of the term of office as a member of such Commission, which--

"(1) is prescribed by law;

"(2) is in effect before the date of the enactment of this Act [Sept. 8, 1982]; and

"(3) is to occur on June 30, 1983;

no person shall be appointed to fill such office after such date, and such office shall be abolished on July 1, 1983."

Older Americans Program

[Section 6 of Pub.L. 100-594](#), as amended [Pub.L. 101-396, § 5](#), Sept. 28, 1990, 104 Stat. 849; [Pub.L. 102-538, Title II, § 212](#), Oct. 27, 1992, 106 Stat. 3545, provided that:

"(a) During fiscal years 1992 and 1993 the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations designated by the Secretary of Labor under title V of the Older Americans Act of 1965 ([42 U.S.C. 3056](#) et seq.) [[section 3056 et seq. of Title 42](#), The Public Health and Welfare] to utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the regulations of the Commission.

"(b) Prior to awarding any grant or entering into any agreement under subsection (a), the Office of the Managing Director of the Commission shall certify to the Commission that such grant or agreement will not--

"(1) result in the displacement of individuals currently employed by the Commission;

"(2) result in the employment of any individual when any other individual is on layoff status from the same or a substantially equivalent job within the jurisdiction of the Commission; or

"(3) affect existing contracts for services.

"(c) Participants in any program under a grant or cooperative agreement pursuant to this section shall--

"(1) execute a signed statement with the Commission in which such participants certify that they will adhere to the standards of conduct prescribed for regular employees of the Commission, as set forth in part 19 of title 47, Code of Federal Regulations; and

"(2) execute a confidential statement of employment and financial interest (Federal Communications Commission Form A-54) prior to commencement of work under the program.

Failure to comply with the terms of the signed statement described in paragraph (1) shall result in termination of the individual under the grant or agreement.

"(d) Nothing in this section shall be construed to permit employment of any such participant in any decisionmaking or policymaking position.

"(e) Grants or agreements under this section shall be subject to prior appropriation Acts."

CROSS REFERENCES

Effective date of section, see [47 USCA § 607](#).

Payment for overtime services or for Sunday or holiday work, see [5 USCA § 5549](#).

CODE OF FEDERAL REGULATIONS

Access charges, see [47 CFR § 69.1](#) et seq.

Amateur radio services, see [47 CFR § 97.1](#) et seq.

Aviation services, see [47 CFR § 87.1](#) et seq.

Cable television relay service, see [47 CFR § 78.1](#) et seq.

Cable television service, see [47 CFR § 76.1](#) et seq.

Commercial radio operators, see [47 CFR § 13.1](#) et seq.

Connection of terminal equipment to telephone network, see [47 CFR § 68.1](#) et seq.

Construction, marking and lighting of antenna structures, see [47 CFR § 17.1](#) et seq.

Delegation of authority, see [47 CFR § 0.201](#) et seq.

Direct broadcast satellite services, see [47 CFR § 100.1](#) et seq.

Employee responsibilities and conduct, see [47 CFR § 19.735-101](#) et seq.

Experimental, auxiliary, and special broadcast and other program distribution services, see [47 CFR § 74.1](#) et seq.

Experimental radio services (other than broadcast), see [47 CFR § 5.1](#) et seq.

Extension of lines and discontinuance of service by carriers, see [47 CFR § 63.01](#) et seq.

Industrial, scientific and medical equipment, see [47 CFR § 18.101](#) et seq.

Miscellaneous rules relating to common carriers, see [47 CFR § 64.1](#) et seq.

Personal radio services, see [47 CFR § 95.1](#) et seq.

Preservation of records of communication common carriers, see [47 CFR § 42.01](#) et seq.

Private land mobile radio services, see [47 CFR § 90.1](#) et seq.

Radio broadcast services, see [47 CFR § 73.1](#) et seq.

Radio frequency devices, see [47 CFR § 15.1](#) et seq.

Reports of communication common carriers and certain affiliates, see [47 CFR § 43.01](#) et seq.

Tariffs, see [47 CFR § 61.1](#) et seq.


LAW REVIEW COMMENTARIES


[FCC authority to regulate the Internet: Creating it and limiting it. James B. Speta, 35 Loy. U. Chi. L.J. 15 \(2003\).](#)

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Commerce  [59](#).

Officers and Public Employees  [1 to 7](#).

Telecommunications  [1, 5, 381 to 383](#).

Key Number System Topic Nos. 83, 283, 372.

Corpus Juris Secundum

[CJS Sunday § 9](#), Work or Labor.

[CJS Telecommunications § 5](#), Federal Communications Commission in General.

[CJS Telecommunications § 8](#), Administrative Proceedings.

RESEARCH REFERENCES

Encyclopedias

[29A Am. Jur. 2d Evidence § 1199](#), Presumptions Under State or Federal Acts.

Forms

[Federal Procedural Forms § 62:1](#), Introduction.

[Federal Procedural Forms § 62:4](#), FCC Discretion as to Procedure.

[Federal Procedural Forms § 62:7](#), Right to Representation; Participation of Counsel.

[Federal Procedural Forms § 62:25](#), Admission of Documents Filed With FCC and FCC Reports and Decisions as Evidence.

[Federal Procedural Forms § 62:27](#), Rulemaking; Initiation of Proceeding; Contents of Petition.

[Federal Procedural Forms § 62:31](#), Request for Public Proceeding.

[1A West's Federal Forms § 323](#), Application for Stay-Federal Court Civil Case.

Treatises and Practice Aids

[Federal Evidence § 548](#), Presumptions Under Acts of Congress.

[Federal Procedure, Lawyers Edition § 2:29](#), Generally.

[Federal Procedure, Lawyers Edition § 72:1](#), Generally.

[Federal Procedure, Lawyers Edition § 72:4](#), FCC Discretion.

[Federal Procedure, Lawyers Edition § 72:7](#), Right to Representation; Participation of Counsel.

[Federal Procedure, Lawyers Edition § 72:27](#), Admission of Documents Filed With FCC and FCC Reports and Decisions as Evidence.

[Federal Procedure, Lawyers Edition § 72:39](#), Public Proceedings; Secrecy as to Certain Materials.

[Federal Procedure, Lawyers Edition § 33:297](#), Federal Statutory Privileges.

[Federal Procedure, Lawyers Edition § 33:584](#), Documents Presumptively or Prima Facie Authentic Under Acts of Congress.

[Federal Procedure, Lawyers Edition § 72:209](#), Report of Investigation.

[Wright & Miller: Federal Prac. & Proc. § 5437](#), Act of Congress.

[Wright & Miller: Federal Prac. & Proc. § 7115](#), Subdivision (B)(10)-Methods Provided by Statute or Rule.

[Wright & Miller: Federal Prac. & Proc. § 7144](#), Subdivision (10)-Presumptions Under Acts of Congress.

NOTES OF DECISIONS


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[1.](#) Construction with other laws

Section 312(b) of this title authorizing Commission to modify station license, but providing that no such order of modification shall become final until holder of outstanding license shall have been notified of proposed action and grounds therefor and shall have been given reasonable opportunity to show cause why such order of modification should not issue, must be construed in light of subsec. (j) of this section empowering the Commission to conduct its proceedings in such manner as will best conduce to proper dispatch of business and ends of justice. [Federal Communications Commission v. WJR, The Goodwill Station, U.S. Dist. Col. 1949, 69 S.Ct. 1097, 337 U.S. 265, 93 L.Ed. 1353. Administrative Law And Procedure](#)  [457](#)

[2.](#) Appointments


Attorneys appointed by Federal Communications Commission, which is vested with quasi judicial powers and discretion, are not "officers" within [U.S.C.A. Const. Art. 2, § 2, cl. 2](#), authorizing Congress to vest appointment thereof in President, courts, or heads of departments, and hence need not be appointed by President or head of department, and, like Communications Commission's other employees, could be deemed in class different from ordinary civil service connected with executive departments. [U.S. ex rel. Crow v. Mitchell, App.D.C. 1937, 89 F.2d 805, 67 App.D.C. 61. United States](#)  [36](#)


3. Quorum


When a quorum is present, Commission may act, but only on vote of a majority of those present. [WIBC, Inc. v. F.C.C., C.A.D.C.1958, 259 F.2d 941, 104 U.S.App.D.C. 126](#), certiorari denied [79 S.Ct. 290, 358 U.S. 920, 3 L.Ed.2d 239](#). [Telecommunications](#)  [10](#)


4. Rules and regulations


See, also, *Notes of Decisions under section 303 of this title.*

Federal Communications Commission's (FCC) extension to leased property of regulation prohibiting restrictions on direct-to-home satellite broadcasts did not constitute per se taking of landlords' property; landlords had already consented to occupation of property by leasing it, no physical intrusion by third party was involved, and government could regulate terms of landlord-tenant relationship without triggering right to compensation or interfering with landlords' right to exclude. [Building Owners and Managers Ass'n Intern. v. F.C.C., C.A.D.C.2001, 254 F.3d 89](#). [Eminent Domain](#)  [2\(1.1\)](#)

Federal Communications Commission's (FCC) failure to allow telephone local exchange carriers (LEC) to offset refund to telephone interexchange carriers (IXC), of amounts LEC collected for interstate access service category in excess of allowed rate of return for category, by amounts LEC undercollected with respect to allowed rate of return for other categories was not impermissibly inconsistent with Commission's theory of rate-of-return regulation; fact that LECs earned less than overall rate of return under Commission's refund scheme did not necessarily mean that any LEC earned less than minimum amount necessary to attract capital. [MCI Telecommunications Corp. v. F.C.C., C.A.D.C.1995, 59 F.3d 1407, 313 U.S.App.D.C. 419](#), rehearing en banc denied, rehearing and rehearing en banc denied, certiorari dismissed [116 S.Ct. 1458, 517 U.S. 1129, 134 L.Ed.2d 537](#), certiorari denied [116 S.Ct. 1890, 517 U.S. 1240, 135 L.Ed.2d 184](#), issued [1996 WL 706464](#), modified on reconsideration [1997 WL 156997](#). [Telecommunications](#)  [347](#)

Where Commission's regulation required it to give seven days notice of meetings whose only order of business was to decide whether to call future meeting with shorter notice, regulation was impermissibly broad and in excess of Commission's rule-making discretion, as regulation's definition of "meeting" should not have been more inclusive than definition contained in section 552b(a)(2) of Title 5. [Washington Ass'n for Television and Children v. F. C. C., C.A.D.C.1981, 665 F.2d 1264, 214 U.S.App.D.C. 446](#). [Telecommunications](#)  [414](#)

Commission created for purpose of regulating interstate and foreign commerce in communication by wire and radio and given power to make such rules and regulations as may be necessary in execution of its functions is authorized to promulgate rules regulating entrance of communications common carriers into nonregulated field of data-processing services, notwithstanding failure of this chapter to make reference to computers and data processing. [GTE Service Corp. v. F.C.C., C.A.2 1973, 474 F.2d 724](#). [Telecommunications](#)  [461.15](#)


Subsec. (i) of this section and § 303(f), (g), (i) of this title authorized Commission's rule prohibiting television networks from representing stations in the sale of non-network time. [Metropolitan Television Co. v. F. C. C., C.A.D.C.1961, 289 F.2d 874, 110 U.S.App.D.C. 133](#). [Telecommunications](#)  [391](#)


Under subsec. (i) of this section regulations of the Commission have the force and effect of law. [Red River Broadcasting Co. v. F.C.C., App.D.C.1938, 98 F.2d 282, 69 App.D.C. 1](#), certiorari denied [59 S.Ct. 86, 305 U.S. 625, 83 L.Ed. 400](#). See, also, Regents of N.M. College of Agriculture & [Mechanic Arts v. Albuquerque Broadcasting Co., C.A.N.M.1947, 158 F.2d 900](#).


Under this section and implementing regulation, ship inspection overtime does not apply to holidays established by executive order for federal employees, but only to holidays generally understood by employees and by public to be


such. 1981, [61 Comp.Gen. 3](#).

5. Orders of Commission--Generally


Universal Service Fund was proposed by Federal Communications Commission in order to further objective of making communication service available to all Americans at reasonable charges, and hence, proposal was within Commission's statutory authority. [Rural Telephone Coalition v. F.C.C., C.A.D.C.1988, 838 F.2d 1307, 267 U.S.App.D.C. 357. Telecommunications](#)  [312](#)

Under subsec. (i) of this section, which gives Commission authority to issue such orders as may be necessary in execution of its functions, Commission had authority to establish interim rates charged providers of international teleprinter exchange services by domestic provider. [FTC Communications, Inc. v. F.C.C., C.A.2 1984, 750 F.2d 226. Telecommunications](#)  [248.1](#)


While the Commission, in phase I of docket 19129, did not prescribe rates for telephone utility, the Commission did prescribe the utility's rate of return; but that action was in the public interest, necessary for the Commission to carry out its functions in an expeditious manner, and fell within its authority under this chapter. [Nader v. F. C. C., C.A.D.C.1975, 520 F.2d 182, 172 U.S.App.D.C. 1. Telecommunications](#)  [336](#)

In each case in which unlawful discrimination by carriers has been found, it is within the Commission's sole discretion either to prescribe a remedy or to order that the carriers themselves end the discrimination. [National Ass'n of Motor Bus Owners v. F. C. C., C.A.2 1972, 460 F.2d 561. Telecommunications](#)  [10](#)


6. ---- Retroactive effect of orders, orders of Commission


FCC's order requiring AT&T and former AT&T operating telephone companies to reduce rates in order to reimburse consumers for earnings enjoyed in excess of rate of return previously prescribed by FCC was not applied with unfairly retroactive effect, where no carrier had ever exceeded the prescribed rate of return and FCC had never foreclosed remedy of rate reduction. [New England Tel. & Tel. Co. v. F.C.C., C.A.D.C.1987, 826 F.2d 1101, 264 U.S.App.D.C. 85, certiorari denied 109 S.Ct. 1942, 490 U.S. 1039, 104 L.Ed.2d 413. Telecommunications](#)  [347](#)


7. ---- Immunity, orders of Commission

Amateur radio operator's rights under Federal Communications Commission (FCC) opinion and order governing federal preemption of state and local regulations pertaining to amateur radio facilities were not sufficiently clear that reasonable government official should have known that enforcement of city ordinances to prohibit construction of antenna system would be violative of operator's rights, entitling city officials to qualified immunity from damages. [MacMillan v. City of Rocky River, N.D. Ohio 1990, 748 F.Supp. 1241. Civil Rights](#)  [214\(4\)](#)


8. Conduct of proceedings--Generally




Congress has left largely to judgment of Commission the determination of manner of conducting its business which would most fairly and reasonably accommodate proper dispatch of its business and ends of justice. [F. C. C. v. Schreiber, U.S. Cal. 1965, 85 S.Ct. 1459, 381 U.S. 279, 14 L.Ed.2d 383. Telecommunications](#)  [8.1](#)




Subsec. (j) of this section which empowers Commission to conduct its proceedings in such manner as will best conduce to proper dispatch of business and to ends of justice left largely to Commission's judgment the determination of manner of conducting its business which would most fairly and reasonably accommodate those ends. [Federal Communications Commission v. WJR, The Goodwill Station, U.S. Dist. Col. 1949, 69 S.Ct. 1097, 337 U.S. 265, 93 L.Ed. 1353. Administrative Law And Procedure](#)  [309.1](#)

Commission has ample power to control scope of its hearings. [American Communications Ass'n v. U. S., C.A.2 1962, 298 F.2d 648. Telecommunications](#)  [7](#)


Commission is not bound to adhere to a procedure merely because it has once been adopted. [Federal Broadcasting System v. F.C.C., C.A.D.C.1955, 225 F.2d 560, 96 U.S.App.D.C. 260, certiorari denied 76 S.Ct. 212, 350 U.S. 923, 100 L.Ed. 808.](#)

While this chapter empowers the Commission to conduct its proceedings in a manner which will best conduce to the proper dispatch of business and ends of justice, the Commission's overriding duty is to protect the public convenience, interest and necessity. [Beaumont Broadcasting Corp. v. F.C.C., C.A.D.C.1952, 202 F.2d 306, 91 U.S.App.D.C. 111. Telecommunications](#)  [8.1](#)


Commission is not, strictly, a court, but it has quasi-judicial powers and its proceedings must satisfy pertinent demands of due process of law. [L.B. Wilson, Inc. v. F.C.C., App.D.C.1948, 170 F.2d 793, 83 U.S.App.D.C. 176. Administrative Law And Procedure](#)  [108](#); [Administrative Law And Procedure](#)  [302](#); [Constitutional Law](#)  [318\(2\)](#)



Subsec. (j) of this section manifests intent of Congress that interested and aggrieved persons should appear before the Commission and there assert their rights, the concept of an interested person being integrated with the concept of a "party" within such provision under the rules of the Commission. [Red River Broadcasting Co. v. F.C.C., App.D.C.1938, 98 F.2d 282, 69 App.D.C. 1, certiorari denied 59 S.Ct. 86, 305 U.S. 625, 83 L.Ed. 400. Administrative Law And Procedure](#)  [450.1](#); [Administrative Law And Procedure](#)  [455](#); [Telecommunications](#)  [8.1](#)

[9. ---- Discontinuance of processing applications, conduct of proceedings](#)

Action of Commission in temporarily discontinuing the processing of contested applications for licenses and in taking up matter of uncontested applications, and in deciding to proceed on uncontested applications merely on oral staff statements without written presentation normally foreseen by its rules, did not exceed powers of Commission, even if some applications which had been contested became uncontested without knowledge of prospective contestants. [Federal Broadcasting System v. F.C.C., C.A.D.C.1955, 225 F.2d 560, 96 U.S.App.D.C. 260, certiorari denied 76 S.Ct. 212, 350 U.S. 923, 100 L.Ed. 808. Telecommunications](#)  [416](#)

[10. ---- Investigations, conduct of proceedings](#)

Power delegated to Commission to establish standards for determining whether to conduct an investigation publicly or in private may not be exercised arbitrarily, but its exercise may not be impeached merely because reasonable minds might differ on wisdom thereof. [F. C. C. v. Schreiber, U.S.Cal.1965, 85 S.Ct. 1459, 381 U.S. 279, 14 L.Ed.2d 383. Telecommunications](#)  [9](#)

The Commission may, without interference, seek through an investigation of its own making, information properly applicable to the legislative standards set up in this chapter but does not have authority to invade the privacy protected by [U.S.C.A.Const. Amend. 4. Stahlman v. F.C.C., App.D.C.1942, 126 F.2d 124, 75 U.S.App.D.C. 176. Searches And Seizures](#)  [79](#); [Telecommunications](#)  [9](#)

Federal Communications Commission (FCC) met threshold requirement for withholding documents under Freedom of Information Act (FOIA) law enforcement category of exemptions of demonstrating that withheld records were compiled for law enforcement purpose, in radio licensee's action against Commission seeking disclosure of records pertaining to Commission investigation of licensee's activities; Commission submitted declaration attesting to connection between its investigation of licensee and its law enforcement duties, including representation concerning Commission's initiation of investigation to determine whether licensee had violated Commission's rules regarding

number of frequencies to which licensee was entitled and whether licensee had made misrepresentations. [Kay v. F.C.C., D.D.C.1997, 976 F.Supp. 23](#), affirmed [172 F.3d 919, 335 U.S.App.D.C. 318](#). [Records](#) 60

11. ---- Necessity of hearing, conduct of proceedings

The Commission did not abuse its authority in denying television license renewal on ground of licensee's lack of candor before the Commission without giving licensee formal notice and hearing on the charge, where, after proceeding had been underway for several years, the Commission was suddenly confronted by documentary evidence establishing beyond doubt that licensee had been less than candid with the Commission in the same proceeding, evidentiary proceeding would have served no useful purpose, and licensee itself had urged that there was no need to reopen the proceedings because resolution of intervenor's claims turned on inferences and legal conclusions to be drawn from facts already before the Commission. [RKO General, Inc. v. F. C. C., C.A.D.C.1981, 670 F.2d 215, 216 U.S.App.D.C. 57](#), certiorari denied [102 S.Ct. 1974, 456 U.S. 927, 72 L.Ed.2d 442](#), certiorari denied [102 S.Ct. 2931, 457 U.S. 1119, 73 L.Ed.2d 1331](#). [Telecommunications](#) 414

Grant or denial of evidentiary hearing of requests for waiver of non-duplication rule of Commission requiring CATV systems, on demand of nearby television stations, to refrain from transmitting from more distant stations programs which are also carried at same time or at another time on same day by nearby stations is discretionary with Commission. [Community Service, Inc. v. U. S., C.A.6 \(Ky.\) 1969, 418 F.2d 709](#). [Telecommunications](#) 457(4)

12. ---- Public hearing, conduct of proceedings

Even if Federal Communications Commission's interest in one of largest packagers and producers of network television programs was deep and concentration of investigation upon that corporation was unique, that would not demonstrate need for secrecy of witnesses testifying concerning corporation's activities, where failure to explore fully policies and practices of that corporation would impair or render nugatory any attempt on Commission's part to understand policies, practices and activities involved in television programming. [F. C. C. v. Schreiber, U.S.Cal.1965, 85 S.Ct. 1459, 381 U.S. 279, 14 L.Ed.2d 383](#). [Telecommunications](#) 412

13. ---- Expedited procedure, conduct of proceedings

Commission, relying in part on information developed in the rule making proceedings, amply justified its decision to expedite action in relation to matter involving community antenna television system, and since the record was not closed until the system had indicated that it would not introduce evidence directed to question of whether carriage of certain television station was a violation of Commission's rules, the system was not prejudiced by expedited procedure which was followed. [Buckeye Cablevision, Inc. v. F. C. C., C.A.D.C.1967, 387 F.2d 220, 128 U.S.App.D.C. 262](#). [Telecommunications](#) 457(5)

14. ---- Dockets, conduct of proceedings

Commission has broad authority to order its own docket. [W. U. Tel. Co. v. F. C. C., C.A.D.C.1981, 665 F.2d 1112, 214 U.S.App.D.C. 294](#). [Telecommunications](#) 8.1

15. ---- Intervention, conduct of proceedings

Provisions of this section empowering Commission to conduct its proceedings in such manner as will best conduce to proper dispatch of business and to the ends of justice delegates to Commission power to resolve subordinate questions of procedure such as proper scope of inquiry, whether applications should be heard contemporaneously or successively, whether parties should be allowed to intervene in another's proceeding and similar questions. [F. C. C. v. Schreiber, U.S.Cal.1965, 85 S.Ct. 1459, 381 U.S. 279, 14 L.Ed.2d 383](#). [Telecommunications](#) 8.1

16. ---- Oral argument, conduct of proceedings

Subsec. (j) of this section respecting conduct of proceedings of Commission commits to the Commission question whether and under what circumstances it will allow or require oral argument except where § 409(a) of this title itself expressly requires oral argument. [Federal Communications Commission v. WJR, The Goodwill Station, U.S. Dist. Col. 1949, 69 S.Ct. 1097, 337 U.S. 265, 93 L.Ed. 1353.](#) [Administrative Law And Procedure](#) 457; [Telecommunications](#) 8.1

The Commission's denial without oral argument of broadcasting company's petition for reconsideration of grant to a competitor which allegedly seriously affected petitioner was not an abuse of Commission's discretion nor a denial of due process although issues of both fact and law were involved. [American Broadcasting Co. v. F.C.C., C.A.D.C. 1949, 179 F.2d 437, 85 U.S.App.D.C. 343.](#) [Administrative Law And Procedure](#) 482; [Constitutional Law](#) 287.2(1); [Telecommunications](#) 417

17. ---- Evidence and witnesses, conduct of proceedings

Inasmuch as presiding officer at investigatory hearing concerning television programming did not know what information would actually be sought and what questions asked and could only speculate as to whether Commission would seek to elicit any data which would work competitive harm, presiding officer did not abuse his discretion in rejecting request of certain witnesses that all testimony and documents to be elicited from them should be received in camera. [F. C. C. v. Schreiber, U.S. Cal. 1965, 85 S.Ct. 1459, 381 U.S. 279, 14 L.Ed.2d 383.](#) [Telecommunications](#) 412

While Commission, as an administrative body, is not limited to strict rules concerning admissibility of evidence prevailing in courts, preservation of essential rules of evidence by which rights are asserted or defended is necessary. [Tri-State Broadcasting Co. v. F.C.C., App.D.C. 1938, 96 F.2d 564, 68 App.D.C. 292.](#) [Administrative Law And Procedure](#) 313; [Telecommunications](#) 8.1

18. ---- Settlements, conduct of proceedings

Where settlement agreement between telecommunications company and other common carriers which provided interstate service could neither take effect nor be extended absent exercise of Commission's authority under this chapter, Commission could not ignore challenges that this chapter imposed upon Commission obligated to ensure that charges for common carrier services were nondiscriminatory and otherwise just and reasonable. [MCI Telecommunications Corp. v. F.C.C., C.A.D.C. 1983, 712 F.2d 517, 229 U.S.App.D.C. 203.](#) [Telecommunications](#) 317

19. ---- Ad hoc rulings, conduct of proceedings

Provisions of this section empowering Commission to conduct its proceedings in such manner as will best conduce to proper dispatch of business and to the ends of justice does not merely confer power to promulgate rules generally applicable to all Commission proceedings, but delegates broad discretion to prescribe rules for specific investigations and to make ad hoc procedural rulings in specific instances. [F. C. C. v. Schreiber, U.S. Cal. 1965, 85 S.Ct. 1459, 381 U.S. 279, 14 L.Ed.2d 383.](#) [Telecommunications](#) 8.1; [Telecommunications](#) 9

20. ---- Review, conduct of proceedings

Holding of Commission that orders and directions of presiding officer at investigatory hearing as to relevance and public disclosure of information were not as of right appealable to the Commission precluded an application to Commission for review of presiding officer's second order rejecting request that all testimony to be elicited from certain persons be received in non-public sessions and disclosed only if authorized by court. [F. C. C. v. Schreiber, U.S. Cal. 1965, 85 S.Ct. 1459, 381 U.S. 279, 14 L.Ed.2d 383.](#) [Telecommunications](#) 420

47 U.S.C.A. § 154, 47 USCA § 154

Current through P.L. 109-40, approved 07-28-05

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