



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 06-906
April 20, 2006

MEDIA BUREAU ACTION

REQUEST FOR COMMENT ON PETITION FOR DECLARATORY RULING REGARDING RFD COMMUNICATIONS, INC. AND ITS ELIGIBILITY TO BE CARRIED AS A DBS PUBLIC INTEREST NONCOMMERCIAL PROGRAMMER

On November 28, 2005, Farm Journal, Inc. ("Farm Journal") filed a Petition for Declaratory Ruling asking the Commission to find that RFD Communications, Inc. ("RFD-TV") fails to satisfy the eligibility requirements of an educational programming supplier for purposes of carriage by DBS providers in fulfillment of their public interest obligations under 47 C.F.R. §25.701. Farm Journal alleges that RFD-TV's programming contains commercial advertisements and is therefore ineligible for carriage on channels that DBS providers reserve for qualified nonprofit organizations or noncommercial educational entities. We request public comment on the issues raised by this filing.

We are assigning this proceeding a Commission docket number, MB 06-92, in order to facilitate filing public comment. Pursuant to Section 1.1200(a) of the Commission's rules, 47 C.F.R. 1.1200(a), this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to nonrestricted proceedings under Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206.¹

Permit-but-disclose *ex parte* procedures permit interested parties to make *ex parte* presentations to the Commissioners and Commission employees and require that these presentations be disclosed in the record of the relevant proceeding. Persons making a written presentation to the Commissioners or Commission employees must file the written presentation with the Commission, as set forth below, no later than the next business day after the presentation. 47 C.F.R. §1.1206(b)(1). Persons making oral *ex parte* presentations must file a summary of the presentation, as set forth below, and deliver copies to the Commissioners or Commission employees involved with the presentation no later than the next business day after

¹ An *ex parte* presentation is any communication (spoken or written) directed to the merits or outcome of a proceeding made to a Commissioner, a Commissioner's assistant, or other decision-making staff member, that, if written, is not served on other parties to the proceeding or, if oral, is made without an opportunity for all parties to be present. See 47 C.F.R. §1.1202.

the presentation. 47 C.F.R. §1.1206(b)(2). All *ex parte* filings must be clearly labeled as such and must reference MB 06-92.

Parties making oral *ex parte* presentations are directed to the Commission's statement reemphasizing the public's responsibility in permit-but-disclose proceedings and are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. §1.1206.

Parties may file responses to the Petition on or before **May 22, 2006** and replies on or before **June 6, 2006**. Please place the docket number **MB 06-92** on all filings.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the website for submitting comments. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

Parties who choose to file by paper must send an original and four (4) copies of the comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Attention Media Bureau. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

The petition will be available for public inspection and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, (202) 418-0270. The petition can also be viewed by using the Commission's ECFS. A copy of the petition may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. People with Disabilities: To request materials in accessible formats for

people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Media Contact: Rebecca Fisher (202) 418-2359
Media Bureau Contact: Rosalee Chiara, (202) 418-0754

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