



PUBLIC NOTICE

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

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DA 12-728
May 8, 2012

MEDIA BUREAU ACTION

MEDIA BUREAU SEEKS COMMENT ON PETITION FOR RULEMAKING REQUESTING THAT THE COMMISSION AMEND THE OVER-THE-AIR RECEPTION DEVICES RULE TO CLARIFY THE EXTENT TO WHICH LOCAL GOVERNMENTS CAN REGULATE NON-EXCLUSIVE USE AREAS

MB DOCKET No. 12-121

Comments due: June 7, 2012

Reply Comments due: June 22, 2012

The Satellite Broadcasting & Communications Association (“Petitioner”) has filed a Petition for Rulemaking seeking to amend the exclusive use provision of the Over-The-Air-Reception-Devices (“OTARD”) Rule (“the Rule”)¹ to apply only to restrictions on reception devices imposed by property owners or homeowners’ associations, and not to restrictions imposed by state or local governments.² The Petition states that “[t]he Commission adopted its ‘exclusive use’ interpretation of the OTARD statute in deference to private regulation of private property interests,” and argues that “[i]f extended to state and local government regulation, however, the very language that preserves a property owner’s prerogatives with respect to common areas he controls would also subject those prerogatives to divestiture at the hands of state and local governmental authorities.”³ This Public Notice announces the pleading cycle for this Petition, during which comments and reply comments may be filed.

This proceeding will be treated as “permit but disclose” for purposes of the Commission’s *ex parte* rules. See generally 47 C.F.R. §§ 1.1200-1.1216. As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission’s rules applicable to non-restricted proceedings.⁴ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period

¹ 47 C.F.R. § 1.4000.

² Petition at 1-2.

³ *Id.* at 11.

⁴ 47 C.F.R. § 1.1206.

applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). Written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Parties may file responses to the Petition on or before **June 7, 2012** and replies on or before **June 22, 2012**. Please place the case identifier, **MB Docket No. 12-121**, on all filings. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- 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).

Copies of the Petition and any subsequently filed documents in this matter are also available for inspection in the Commission's Reference Information Center:

445 12th Street, S.W., CY-Level
Washington, D.C. 20554
(202) 418-0270

For further information, contact Simon Banyai of the Media Bureau, (202) 418-1443. Press inquiries should be directed to Janice Wise (202) 418-8165.

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