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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F 2d 385 (D.C. Circ. 1975)

Report DC-416

ACTION IN DOCKET CASE

March 13, 1986

THREE OUTDATED BROADCAST BUSINESS PRACTICES RULES AND POLICIES DELETED (MM DOCKET 83-842)

In the latest action in the broadcast "underbursh" proceeding in which the Commission is attempting to eliminate or modify various policies and rules which are no longer warranted or required by the public interest, particularly where there are sufficient marketplace forces or alternative remedies to deter the activities addressed, the Commission has deleted the following policy areas which deal broadly with broadcast business practices:

- Fraudulent Billing Practices (Sections 74.4155 and 73.1205);
- Network Clipping (Sections 73.4155 and 73.1205; and
- Combination Advertising Rates; Joint Sales Practices (Section 73.4065).

The Commission noted that these policies have little impact upon the public, and that their repeal would give broadcasters greater flexibility to conduct their business to the benefit of the public interest. It further noted there are adequate remedies already in place which are more appropriate for resolving such private actions.

Given the fact that the harmful effects of fraudulent billing and network clipping practices are de minimis to consumers and viewers, the FCC said the direct parties to these transactions have strong incentive to monitor them and protect themselves. With the wide range of options available for resolution of these business disputes, the FCC concluded that the public interest does not require the retention of these non-statutory rules. The agency said, while it will no longer conduct investigations into such matters, it will, where appropriate, refer allegations to the proper authorities -- e.g., the U.S. Attorney or the Federal Trade Commission.

With respect to its policies concerning Combination Advertising Rates and Joint Sales, the Commission pointed out that the FCC should not continue to outlaw practices which are not prohibited by antitrust laws.

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With respect to the "character" implications of licensees who engage in these three policy areas in the future, the FCC said such actions will be treated as non-FCC misconduct and the Commission will concern itself only with final adjudications, civil or criminal, by other courts or agencies -- for example, mail fraud or antitrust violations.

Action by the Commission March 13, 1986, by Second Report and Order (FCC 86-111). Commissioners Fowler (Chairman), Quello, Dawson and Patrick.

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