Amateur Radio Service Operating Rules
Rebroadcasts
Rebroadcasts, Consent Required
Rebroadcasts, Prohibited

Report and Order adopted amending Parts 73 and 97 concerning broadcast use of transmissions of non-broadcast radio stations. These changes: 1) eliminate prohibition on rebroadcasts of messages transmitted by Personal Radio Service (CB and GMRS) stations; 2) revise and clarify Amateur Radio rules pertaining to broadcast-related activity; 3) permit rebroadcasts of CB and Amateur transmissions without prior permission of message originator; and 4) eliminate requirements for FCC rebroadcast permission and notification.
—*Amendment of Parts 73 and 97*
BC Docket No. 79-47

FCC 85-302

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the matter of	
Amendment of Parts 73 and 97 of the Commission's Rules Concerning Rebroadcasts of Transmissions of Non-broadcast Radio Stations	BC Docket No. 79-47 RM-2830

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 7, 1985; Released: June 13, 1985

BY THE COMMISSION:

1. The Commission is adopting revisions to its broadcast rules concerning rebroadcast of non-broadcast radio transmissions to eliminate unnecessary restrictions and administrative procedures and to conform them to new provisions of the Communications Act of 1934, as amended. These revisions provide for: 1) elimination of the prohibition on rebroad-

casts of Personal Radio Service communications[1]; 2) elimination of the requirement for FCC rebroadcast approval; and, 3) exemption of rebroadcasts of CB and amateur radio communications from the requirements for prior authorization from the originating station. The Commission also is revising portions of its amateur radio rules to clarify its intention to maintain the amateur service for purposes separate from broadcasting.

Background

2. This proceeding was initiated in 1979 in response to a petition for rule making filed by the National Association of Broadcasters (NAB). In its petition, the NAB asked the Commission to amend the rules to permit broadcast stations to rebroadcast CB emergency transmissions and to permit amateur stations to transmit emergency and public safety information for broadcast and broadcast-related purposes. On March 15, 1979, the Commission adopted a combined *Notice of Inquiry and Memorandum Opinion and Order* (*Inquiry*), 44 FR 20465, that denied the NAB's request for changes to the amateur rules, but asked for comments and additional information on the question of whether to permit rebroadcasts of CB emergency messages.

3. Subsequent to the *Inquiry*, in 1982, the Congress modified Section 605 of the Communications Act to eliminate the statutory proscriptions on the unauthorized interception of amateur and CB radio transmissions and radio communications related to certain distress situations.[2] In October of 1984, Congress again modified Section 605 and redesignated the new version as Section 705, 47 USC Section 705. However, the 1984 modifications do not affect matters relating to privacy or rebroadcasts of the subject radio communications.[3] An additional development concerning rebroadcast activity occurred in the context of the October 1983, United States military action in Grenada, when questions arose concerning use of amateur radio facilities in conjunction with broadcast news gathering activities.

4. In light of the record developed with respect to the *Inquiry*, the 1982 statutory revisions, and the uncertainty concerning the rules with respect to use of amateur communications in broadcast news gathering, the Commission adopted a *Notice of Proposed Rule Making* (*Notice*), 49

[1] The Personal Radio Services, as addressed in Part 95 of the rules, include the General Mobile Radio Service (GMRS), the Remote Control (R/C) Radio Service and the Citizens Band (CB) Radio Service. Prior to 1976, the Personal Radio Services were known as the Citizens Radio Service with subdivisions Class A, Class C, and Class D that corresponded to the individual subservices under the Personal Radio Services designation. *See, Third Report and Order* in Docket No. 20120, 41 FR 56067.

[2] *See* Communications Amendments Act of 1982, PL-97-259.

[3] *See*, Cable Communications Policy Act of 1984, Pub. L. No. 98-549, §5, 98 Stat. 2779 (1984).

FR 30549, in the rebroadcast matter on July 12, 1984. In the *Notice*, the Commission indicated it was undertaking a comprehensive review and revision of its regulations with respect to rebroadcasts of transmissions of non-broadcast radio stations. The *Notice* set forth specific proposals for eliminating restrictions and procedures with respect to rebroadcast activity and for rewriting portions of the amateur rules to clarify the Commission's policy with respect to use of amateur facilities for broadcast purposes.

5. Thirteen comments and eight reply comments were submitted in response to the *Notice*. A list of parties filing comments and replies is presented in Appendix A.

6. *Current Rule Provisions.* Under the current rules, broadcast stations generally are permitted to rebroadcast the transmissions of non-broadcast radio stations, subject to requirements for prior permission that vary with the type of station originating the message.[4] The exception to this general policy is that the rules prohibit any rebroadcast of communications from Personal Radio Service stations, that is, stations in the CB and GMRS radio services.[5] In the case of private radio communications, the broadcaster is required to obtain rebroadcast permission from the originating station and the FCC. To rebroadcast communications of common carrier stations, the broadcaster must secure permission from the message originator in addition to the station licensee and the FCC. In either case, FCC approval may be requested informally by telephone, and must be followed with a written confirmation that includes the written consent of the parties associated with the originating station. Radio communications originated by stations owned and operated by the Federal Government may be rebroadcast with the permission of the originating government agency. FCC approval is not necessary for rebroadcasts of Federal Government radio transmissions, but the broadcaster is required to submit written notification that prior permission for the rebroadcast had been obtained. The rules for the Personal Radio Services prohibit use of CB and GMRS stations to convey program material for rebroadcast on a radio or television station.[6] However, the rules do permit these stations to be used for other purposes such as news gathering and administrative activities associated with program production.

7. The amateur rules specify that an amateur station may not be used to engage in any form of broadcasting, but do permit amateur operators to give consent to rebroadcast of their transmissions, provided that the transmissions do not contain any direct or indirect reference to the

[4] The rebroadcast rules are set forth in 47 CFR 73.1207.

[5] *See* 47 CFR 73.1207(e). *See also* footnote 1, *supra*.

[6] *See* 47 CFR 95.181(i)(12) (GMRS rules), and 47 CFR 95.413(b)(CB rules).

rebroadcast.[7] Section 97.114 of the rules prohibits use of an amateur station for third party communications involving compensation or business activity.[8] Thus, the rules effectively preclude a broadcaster from any interactive use of amateur radio facilities.

Discussion

8. Upon review of the record in this proceeding, we have decided to adopt rule changes that are generally consistent with the proposals described in the *Notice.* These changes are largely deregulatory in nature and serve to facilitate greater opportunity for broadcasters to make use of non-broadcast radio communications.

9. As discussed in the *Notice,* the Commission is concerned with two separate and distinct policy objectives in the rebroadcast matter, each of which directly relates to statutory provisions in the Communications Act. The first is the requirement under Section 303 that the Commission classify radio stations and limit use of the frequencies assigned to the classes of stations to the purposes of the services to which they are allocated. The other is privacy and protection of communications from unauthorized use as provided in Section 705. The *Notice* discussed proposals for changes to the rules that serve both of these statutory provisions and also invited comment on any other issue that might arise in the context of this matter.

Revisions Pertaining to Section 303

10. Section 303 of the Communications Act directs the Commission to manage the use of the radio spectrum, and to do this in a manner that generally encourages the larger and more effective use of radio in the public interest.[9] With respect to use of the frequencies, Sections 303(a) and 303(b) provides that the Commission shall "[c]lassify radio stations" and "[p]rescribe the nature of the service to be rendered by each class of stations and each station within any class," 47 U.S.C. Sections 303(a)-(b). In order to assure the most effective use of the spectrum in terms of users and types of services in accordance with these statutory obligations, the Commission has found it necessary "to establish priorities, limit eligibility to hold radio station licenses, and restrict the use of stations to specified purposes and types of services which will be most beneficial to the public," *Citizen's Band Radio Rules,* 38 FCC 1238, 1241 (1965).

11. Consistent with Sections 303(a) and (b), the Commission's rules generally permit rebroadcasts of transmissions of stations in non-broadcast radio services, but prohibit the use of stations in services not allocated for broadcast purposes to transmit communications intended for

[7] *See* 47 CFR 97.113.

[8] *See* 47 CFR 97.114.

[9] *See* 47 U.S.C. Section 303.

broadcasting. This approach allows broadcast use of non-broadcast communications as a source of information and does not interfere with other services' normal authorized traffic and operation.

12. *Rebroadcasts of personal Radio Service Communications.* In the *Notice*, we proposed to eliminate the prohibition on rebroadcasts of Personal Radio Service transmissions in Section 73.1207(e) of the rules. We indicated that upon consideration of our basic policy towards rebroadcasting and the comments from the *Inquiry*, we believed this rule was no longer justifiable.

13. Section 73.1207(e) was added to the broadcast rules in an *Order* adopted November 12, 1975, 40 FR 54791.[10] The Commission stated that this action would conform the broadcast rules with the prohibitions in the Personal Radio Service rules on transmission of program material for a broadcast station and would address concerns that, due to congestion and other related considerations, the Personal Radio Services were impractical for use in conjunction with the broadcast services.[11] Thus, the decision that gave rise to the rule prohibiting rebroadcast of Personal Radio Service transmissions was intended to address situations in which CB and GMRS radio stations would be used to transmit broadcast program material. In the *Notice*, we observed that in prohibiting all rebroadcasts of Personal Radio Service communications the rule goes beyond the issue of use of such facilities for transmission of broadcast program material.

14. In the *Inquiry* and the *Notice*, the Commission also addressed an issue with respect to the possibility of rebroadcasts of false or misleading information that is often present in CB communications.[12] We were concerned that rebroadcasts of erroneous information could be harmful, especially when it pertains to emergency or public safety situations. Broadcast parties responding to the *Inquiry* submitted that this would not be a problem because stations could be expected to exercise the same discretion in rebroadcasting CB reports as they normally exercise in broadcasting information provided by the public through other means such as telephone, letter, or personal contact. The responses to the *Inquiry* did not resolve our concerns with respect to the quality of CB communications as a source of broadcast news. Nonetheless, we agreed

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[10] Section 73.1207(e) was originally added as Section 73.1207(d).

[11] *See Order, supra*, at para. 2(h). The Commission indicated that there were "strong reasons" in addition to conformance for this rule: 1) the broadcast services are adequately served by remote pickup broadcast service facilities for remote transmissions of this type; 2) the [Personal Radio Services are] essentially designed to provide for private, short distance radio communications for business and personal use; and 3) congestion in the [Personal Radio Services] increases constantly making sole use of a channel beyond guarantee and therefore impractical for use in conjunction with the broadcast services."

[12] *See Notice*, paras. 12-13.

with the statements by the NAB and others that broadcasters are aware of their responsibilities to the public and can be expected to apply appropriate discretion in rebroadcasting intercepted CB messages. We further stated that we believe licensees are in a position to know their communities well enough to make individual determinations in such cases.[13]

15. The parties responding to the *Notice* generally agree with our initial finding. The National Radio Broadcasters Association (NRBA) submits that the benefits to be derived from rebroadcasts of Personal Radio Service communications far outweigh the potential for harm from transmission of inaccurate or useless information. CBS and NAB agree that to permit rebroadcasts of Personal Radio Service messages would not conflict with the intended purposes of these services and would provide increased access to sources of emergency traffic, road, and weather information. The only opposition to this proposal was expressed by the American Legal Foundation (ALF). It argues that to permit rebroadcasts of CB and GMRS messages would contradict the nature and purpose of these services by forcing station operators to curtail transmissions of private and personal information.

16. We find that the record supports our initial conclusion that rebroadcasts of CB or GMRS radio communications in the same manner as other non-broadcast radio services would not conflict with the purposes of the Personal Radio Services. We believe that the purposes of these services are adequately protected by the rules that prohibit use of CB and GMRS stations to convey broadcast program material.[14] We find no merit in the ALF's contention that rebroadcasts of CB and GMRS radio messages would lead station operators in these services to curtail transmissions of private or personal information. As discussed below, CB transmissions are not afforded statutory privacy protections, and GMRS transmissions are protected from unauthorized use by Section 705 of the Communications Act. In addition, we are sensitive to the First Amendment rights of broadcasters and do not wish to impose any regulation that might unnecessarily restrict broadcasters access to information resources. Therefore, we are eliminating the prohibition on rebroadcasts of Personal Radio Service communications.

17. *Revisions to the Amateur Rules.* In the *Notice*, we indicated that the staff regularly receives requests and inquiries with respect to use of amateur radio facilities for broadcast purposes, particularly news gathering in emergency situations. In view of these inquiries, we were concerned that the amateur rules might be insufficiently specific with respect to our intent that they prohibit all activities involving use of amateur stations for

[13] *Id.* para. 15.

[14] *See* footnote 6, *supra.*

broadcast purposes. We proposed to resolve this problem by rewriting the appropriate parts of the amateur rules and including a specific prohibition on the use of amateur stations for broadcast news gathering and other program production purposes.

18. The comments are generally supportive of this position, with one exception. The National Association of Broadcasters (NAB), the Radio-Television News Directors Association (RTNDA), and CBS, Inc., all support a broadcast news gathering exception for transmission of information concerning *bona fide* news events when other telecommunications facilities are unavailable or inadequate. The American Radio Relay League (ARRL) opposed such an exception as overly broad and inconsistent with the noncommercial nature of the amateur radio service. The ARRL took the position that only certain currently well-defined emergency uses of amateur transmissions should be excepted, and that no rule change is required.[15]

19. The ARRL also asserts that proposed Sections 97.113(b) and 73.1207 are inherently in conflict, arguing that a rule prohibiting use of an amateur station for broadcast program production or news gathering is not consistent with a rule allowing a broadcast station to retransmit an amateur signal. The ARRL argues that by definition any such broadcast station retransmission of an amateur signal would be for program production or news gathering purposes. The ARRL further states that prohibiting *all* retransmissions instead of just "automatic" retransmissions of non-amateur stations would adversely affect amateur operators. ARRL asserts that this would outlaw the practice of "manual" or non-automatic retransmission, i.e., where an amateur operator manually holds the microphone of the amateur transmitter up to a non-amateur receiver, such as an FM radio.

20. Upon consideration of the record, we are revising the amateur rules and including specific provisions to prohibit use of amateur stations for broadcast news gathering or production purposes as proposed. These rules will prohibit use of an amateur radio station as a remote pickup or auxiliary link broadcast service facility. Such uses of an amateur radio station as forwarding weather reports or providing commuter traffic reports for use in any broadcast context will continue to be expressly prohibited.

21. We proposed to remove emergency communications (current Section 97.91(a)) from the list of exceptions to the new 97.113 to anticipate and eliminate any possible construction that amateurs would be free to broadcast in an emergency. In light of objections to removal of an explicit authorization to engage in one-way emergency communications, we have

[15] *See* the February 25, 1985 letter from the ARRL to the Chief, Special Services Division, Private Radio Bureau.

redefined amateur emergency communications to insure against any misinterpretation. Emergency communications are listed as an exception to the provisions of the new Section 97.113.

22. We note that a rule of reason applies when interpreting this emergency exception to the broadcast prohibitions in the amateur radio service. Thus, conveying news information directly relating to an unforeseen event which involves the safety of human life or the immediate protection of property falls within this rule of reason, if it cannot be transmitted by any means other than amateur radio because of the remote location of the originating transmission or because normal communications have been disrupted by earthquake, fire, flood, tornado, hurricane, severe storm or national emergency. In instances where other communication facilities were unavailable, RTNDA had sought a much broader application of amateur radio to broadcast purposes. In support of this proposition they cited only examples of necessary, emergency communications. We believe acceptable uses of amateur radio in emergencies are governed by traditional common sense interpretations of those provisions of current Section 97.91 which we are now including in Section 97.113. Therefore, our rule of reason approach described above accommodates RTNDA's expressed purposes without creating unnecessary exceptions to the amateur rules which could needlessly encourage unauthorized broadcast-related amateur transmissions.

3. With respect to the ARRL's claim that there is conflict in the rules, we point out that Section 97.113(b) does not restrict broadcasters from retransmitting amateur communications, but rather it prohibits amateur operators from transmitting messages for broadcast or broadcast-related purposes. This restriction on amateur transmissions is necessary to preserve the non-commercial nature of the amateur service. Section 73.1207 implements privacy protections under Section 705 of the Communications Act. It is not intended to insure that other radio services are used for their intended purposes. Sections 73.1207 and 97.113 serve different regulation objectives and are not contradictory.

24. In regard to the ARRL's comments concerning amateur retransmission of non-amateur radio communications, we have never construed the word "automatic" in Section 97.113 to legitimize the practice of holding an amateur microphone to a non-amateur receiver. In the case of retransmitting National Oceanic and Atmospheric Administration (NOAA) weather reports, used as an example by the ARRL, we note that the ARRL itself in its annotated publication of our rules states that the only ways to satisfy this rule are to write a script based on the weather report or to obtain it from a source other than a transmission (such as from a telephonic recording over the public switched telephone net-

work).[16] Thus removal of the word "automatic" clarifies this rule at a time when "automatic" has taken on new and different meanings in the context of amateur repeater, auxiliary and beacon usage.

25. *Revisions Pertaining To Section 705.* Section 705 prohibits unauthorized use of radio communications.[17] Prior to the 1982 revisions to the Communications Act, this statutory protection of privacy applied to virtually all radio transmissions except those intended for use by the general public.[18] The new Section 705 expressly excludes CB and amateur radio communications from the privacy protections. In enacting this provision, Congress recognized that "[a]ll amateur and CB radio operators may use any of the channels allocated to their services" and concluded "[t]hus, these operators do not enjoy any reasonable expectation of privacy . . . ."[19]

26. In accordance with the requirements of Section 705, the Commission's rules require broadcasters to obtain appropriate permissions prior to rebroadcast of non-broadcast radio transmissions.

27. *Permission from CB and Amateur Stations.* In view of the new statutory provisions, we proposed to exempt rebroadcasts of CB and

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[16] *See FCC Rule Book*, ARRL, 1984, at 6-6.

[17] The current Section 705 states, in relevant part, that:

> No person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person . . . .
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> No person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of such communication (or any part thereof) knowing that such communication was intercepted, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of such communication (or any part thereof) or use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto.
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> This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which is transmitted by any station for use of the general public, which relates to ships, aircraft, vehicles, or persons in distress, or which is transmitted by an amateur radio station operator or by a citizens band radio operator.

Unauthorized rebroadcasts of broadcast signals are prohibited under a separate provision in Section 325(a) of the Communications Act. *See* 47 U.S.C. Section 325(a).

[18] The earlier version of the then Section 605 applied to all radio communications except for those which are "broadcast or transmitted by amateurs or others for use of the general public" or which relate to ships in distress. Under this version of the law, the matter of when an amateur communication is for the general public was clarified by a 1980 judicial interpretation that amateur communications other than calls for contact with another station were subject to the protection of Section 605, *Reston* v. *FCC*, 492 F. Supp. 697 (D.D.C. 1980).

[19] H.R. Rep. No. 765, 97*th* Cong. 2d Sess. (1982).

amateur transmissions from the requirements for prior authorization from the originating station. Broadcast interests support this proposal. In comments expressive of the consensus of the broadcast respondents, the NAB submits that elimination of the requirements for rebroadcast consent from CB and amateur operators would make available an important and often unique source of information and would not pose any reasonable concerns with respect to privacy. Amateur radio parties are opposed to elimination of the requirement for rebroadcast permission from amateur stations. The American Radio Relay League (League) argues that while an amateur station may not expect privacy in its transmissions, some case-by-case control over broadcast transmission of amateur signals is necessary to insure that the non-commercial nature of amateur radio is preserved. The League asks the Commission to retain the amateur consent provision and thereby place control over the use of amateur communications in the hands of those who have a direct interest in maintaining the character and integrity of the service. Comments from individual amateur licensees express concern for loss of privacy if the rebroadcast consent requirements are lifted.

28. After consideration of the record concerning this issue, we continue to believe that it is no longer necessary or desirable to require broadcasters to obtain rebroadcast consent from CB and amateur radio stations. We do not agree that the non-commercial nature of amateur radio will be jeopardized if this requirement is eliminated. In the absence of this rule, amateur operators will remain in full control of all communications transmitted on the amateur band. Broadcast use of amateur communications, with the exception of third party communications in emergency situations as discussed *supra*, will continue to be limited to secondary, or "receive only", purposes. Thus, we see no threat to the non-commercial nature of amateur radio if the consent requirement is eliminated. In addition, the legislative history of Public Law 97-259 clearly states that "... these operators do not enjoy any reasonable expectation of privacy ... ."[20] Furthermore, we find no justification for maintaining privacy protections for CB and amateur transmissions as a matter of policy. Accordingly, we are exempting CB and amateur transmissions from the requirements for prior authorization from the originating station in Section 73.1207(c)(1).[21] With this change to the broadcast rules, the provision in Section 97.113 of the amateur rules that specifically allows amateurs to grant rebroadcast consent is no longer necessary. Therefore, we are deleting this provision from Section 97.113.

[20] *See* Congressional Record—House, H6546 (August 19, 1982).

[21] We note that Congress did not exclude GMRS transmissions from the provisions of Section 705. Thus, the GMRS service is still protected and our rules will continue to require rebroadcast permission from stations in this service.

29. *FCC Rebroadcast Approval.* In the *Notice,* we proposed to eliminate the requirements for FCC approval to rebroadcast transmissions of private, non-broadcast radio stations and for written notification to the FCC that permission had been obtained prior to rebroadcast of transmissions of a government radio station. Our internal review of these rules revealed that FCC approval, whether informal (telephone) or formal (written) is routinely granted if the rebroadcast would otherwise be consistent with the rules. This review also indicated that the written notifications associated with rebroadcasts of government communications are simply associated with a station's records and do not form the basis for any subsequent regulatory or administrative activity.

30. In the *Notice,* we indicated that in the absence of the requirements for FCC approval and notification, we would consider alternative regulation to insure and verify compliance with the consent requirements of Section 705. We proposed to require licenses to obtain written rebroadcast permission from the originating station in all cases where Section 705 applies, and to maintain a copy of that permission at the station, to be available to the FCC on request. The written permission would be maintained until final FCC action on the station's license renewal subsequent to the rebroadcast or for one year, which ever is longer. We also asked for suggestions for an approach that would provide for "implied consent."

31. The commenting parties unanimously support our initial conclusion that the requirements for FCC approval and notification with respect to rebroadcasts of non-broadcast radio transmissions serve no useful regulatory purpose. CBS generally opposes any new rules to insure compliance and verification with respect to rebroadcast consent. It contends that such requirements are unnecessary given the criminal penalties for violation of Section 705 and the remedies available to private parties through civil litigation. CBS submits that in view of these penalties, broadcasters have strong incentives to take whatever steps are necessary to insure that rebroadcast consent is obtained and to maintain adequate records to document that consent. As an alternative to our initial proposal, it suggests a rule that would permit broadcasters to rely on informal, express verbal approval which would be followed by a written document prepared by either the message originator or the broadcast station. The NAB also believes that the best approach would be simply to defer to the provisions of Sections 705. The NAB submits that it is hesitant to support an implied consent policy in the case of police, fire, and other public safety communications. However, it suggests that such an approach might be feasible with respect to other private radio communications and that implied consent could be determined from the nature and content of the transmissions.

32. After consideration of the record, we conclude that the requirements for FCC rebroadcast approval and notification serve no useful regulatory purpose. Accordingly, we are eliminating them. This action will remove unnecessary regulatory procedures and relieves both broadcast licensees and the Commission of the burden of complying thereto.

33. We agree with CBS and the NAB that additional requirements to insure compliance and verification with respect to rebroadcast consent under Section 705 are unnecessary. We conclude that our own provisions for rule violations,[22] and the civil and criminal penalties CBS mentions provide sufficient incentive to insure that broadcasters comply with the rebroadcast consent requirements and that they maintain adequate documentation to verify that consent was obtained. Accordingly, we will not set forth rules requiring licensees to maintain written verification of rebroadcast consent. We also conclude that an implied consent approach would be difficult to make workable within the context of Section 705 and, therefore, we will not adopt such an approach.

34. *Foreign Satellites.* The Turner Broadcasting System requests that the Commission issue an interpretation to the effect that it would not violate Section 705 to rebroadcast brief excerpts of programming obtained from foreign satellites, without FCC approval, but with the consent of the signal originator. Turner also contends that such an interpretation would also be consistent with other interests such as copyright, privacy, and the INTELSAT Agreement that are protected in the U.S. through enforcement of Section 705. In reply comments, the Communications Satellite Corporation (COMSAT) argues that Turner's request should be denied on the grounds that it introduces questions with respect to United States treaty obligations and other national and foreign policy interests related to international satellite transmissions and thus goes beyond the issues that led to the *Notice.* COMSAT also contends that Turner's request is inconsistent with the approach the Commission has taken to date with respect to blanket authority to intercept foreign satellites and therefore should be denied on its merits.

35. We find that the issues with respect to United States treaty obligations and international agreements raised in Turner's request are beyond the scope of this proceeding. Accordingly, we are not ruling on Turner's request to the extent that it involves permission to receive and use excerpts of foreign satellite programming on a routine basis. We wish to indicate that we are not taking a position on the merits of this aspect of Turner's request. However, we note that once a licensee has obtained clear authority from the Commission to receive and use foreign satellite programming, there is no bar to rebroadcasting such programming. In this context, we note the Common Carrier Bureau recently issued a

[22] *See* Section 1.80 of the Commission's rules.

Memorandum, Opinion, and Authorization (File No. 907-DSE-L-85, action May 17, 1985 by the Chief, Common Carrier Bureau) concerning an application by the Cable News Network, Inc. (CNN), a Turner affiliated company. That action issued a "conditional grant" to CNN to receive signals from the Soviet Union's GHORIZONT STATIONS 4 and 7 satellites. Under the new rules adopted herein, CNN may rebroadcast programming from these satellites without further approval from the FCC.

Procedural Matters

36. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final regulatory flexibility analysis is:

I. Need for and Purpose of the Rules:

The Commission has determined that portions of its rules pertaining to rebroadcasts of non-broadcast radio communications impose unnecessary restrictions and administrative procedures on radio service licensees and the Commission and, therefore, has eliminated those provisions of the rebroadcast rules. These changes will provide increased opportunities for commercial broadcasters to use non-broadcast radio communications in news and other programming. We have rewritten the amateur rules that address use of amateur facilities for broadcast purposes to clarify our general policy prohibiting such uses and to include an exception to permit third party communications on behalf of broadcasters over amateur stations in emergency situations. We believe the public interest benefits in news and information dissemination that can be obtained by permitting third party broadcast traffic in emergencies are sufficient to outweigh the concerns of our general policy of prohibiting such uses of amateur stations. This action also implements certain provisions of the Communications Amendments Act of 1982.

II. Summary of issues raised by public comments in response to the initial regulatory flexibility analysis, Commission assessment, and changes made as a result:

A. *Issues raised:* No issues or concerns were raised in response to the initial regulatory flexibility analysis.

B. *Assessment:* The Commission considers the absence of comments discussing adverse impact with respect to its proposals to relax the rules for rebroadcasts of non-broadcast radio communications and to rewrite the amateur rules that pertain to use of an amateur station for broadcast purposes to be indicative of their lack of potential for negative or harmful effects on small business entities. We believe the new rebroadcast rules will have a positive effect on broadcast stations by providing increased

and easier access to information that is available through non-broadcast radio services.

C. *Changes made as a result of such comments:* None.

III. Significant alternatives considered and rejected:

With respect to the proposal to eliminate the prohibition on rebroadcasts of Personal Radio Service communications, the alternative was to retain the current rule. The Commission found that this restriction on use of CB and GMRS radio transmissions is no longer justifiable.

The Commission proposed to rewrite portions of the amateur rules to clarify its intent to maintain the amateur service for purposes separate and distinct from broadcasting. The alternative was to adopt some form exception that would permit limited third party amateur communications for broadcasters. The Commission agreed with the arguments in the comments that it would serve the public interest to permit limited third party amateur communications for broadcasters and therefore adopted a version of the alternative approach with respect to this issue.

The alternative to the proposal to exempt CB and amateur communications from the requirement to obtain consent from the originating station prior to rebroadcast was to continue to require such consent. In view of the revised Section 705 of the Communications Act, we found it unnecessary to require broadcasters to obtain rebroadcast permission from CB and amateur operators.

The final proposal was to eliminate the requirements that stations: 1) obtain FCC approval prior to rebroadcast of private, non-broadcast radio communications and, 2) notify the FCC that prior consent had been obtained in cases of rebroadcasts of communications of government owned radio stations. Instead of these requirements, the Commission proposed merely to require licensees to obtain a copy of written permission from the message originator, to be available on request. The alternatives were: 1) require only informal, verbal permission from the message originator, 2) not specify requirements for verification, and 3) maintain the current requirements for permission. The Commission determined that in view of the criminal and civil penalties for violation of Section 705, specific rules to insure compliance and verification of compliance with the statutory consent requirements are not necessary. The Commission therefore eliminated the provisions in its rules requiring separate FCC approval and notification in cases where non-broadcast radio communications are rebroadcast.

37. Authority for adoption of the rules set forth herein is provided in Sections 2, 4(i), 303, and 705 of the Communications Amendments Act of 1934, as amended.

38. Accordingly, IT IS ORDERED that Parts 73 and 76 of the Commission's rules ARE AMENDED as set forth in Appendix B, effective July 22, 1985. In addition, IT IS ORDERED that this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

WILLIAM J. TRICARICO, *Secretary*

*Appendix A—may be seen in FCC Dockets Branch, 1919 M Street, N.W., Washington, D.C.

APPENDIX B

Parts 73 and 97 of Title 47 of the Code of Federal Regulation is amended as follows:

A. Part 73 - Radio Broadcast Services

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended; 47 U.S.C. 154, 303. Interpret or apply Secs. 301, 307, 48 Stat. 1081, 1082, as amended, 1083 as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

2. Section 73.1207 is amended by revising paragraph (c) to read as follows:

§73.1207 Rebroadcasts.

* * * * *

(c) The transmissions of non-broadcast stations may be rebroadcast under the following conditions:

(1) Messages originated by privately-owned non-broadcast stations other than those in the Amateur and Citizens Band (CB) Radio Services may be broadcast only upon receipt of prior permission from the non-broadcast licensee. Additionally, messages transmitted by common carrier stations may be rebroadcast only upon prior permission of the originator of the message as well as the station licensee.

(2) Except as provided in paragraph (d) of this section, messages originated entirely by non-broadcast stations owned and operated by the Federal Government may be rebroadcast only upon receipt of prior permission from the government agency originating the messages.

(3) Messages originated by stations in the amateur and Citizens Band (CB) radio services may be rebroadcast at the discretion of broadcast station licensees.

3. In Section 73.1207, paragraph (e) is removed.

B. Part 97 - Amateur Radio Services

1. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609.

2. Paragraph (w) of Section 97.3 is revised to read as follows:

§97.3 Definitions.

* * * * *

(w) *Emergency communication.*

A non-directed request for help or a distress signal directly relating to the immediate safety of human life or the immediate protection of property.

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3. Paragraph (d) of Section 97.85 is revised to read as follows:

§97.85 Repeater operation.

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(d) A station in repeater operation shall be operated in a manner insuring that it is not used for broadcasting (see §97.113).

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4. Section 97.91 is removed and reserved.

5. Section 97.110 is revised to read as follows:

§97.110 Business communications prohibited.

The transmission of business communications by an amateur radio station is prohibited except for emergency communications (see §97.3(w)).

6. Section 97.113 is revised to read as follows:

§97.113 Broadcasting and broadcast related activities prohibited.

(a) An amateur station shall not be used to engage in any form of broadcasting, that is, the dissemination of radio communications intended to be received by the public directly or by intermediary relay stations.

(b) An amateur station may not be used for any activity related to program production or news gathering for broadcast purposes.

(c) An amateur station shall not retransmit programs or signals emanating from any class of radio station other than amateur, except for emergency communications (see §97.3(w)).

(d) The following one-way amateur transmissions are not considered broadcasting:

(1) beacon or radio control operation;

(2) information bulletins consisting solely of subject matter relating to amateur radio;

(3) transmissions intended for persons learning or improving proficiency in the international Morse code; and

(4) emergency communications (see §97.3(w)).

(e) Round table discussions or net operations where more than two amateur stations are in communication with one another are not considered broadcasting.