

services, or equipment used to provide or access advanced communications services to the extent such person—

“(1) transmits, routes, or stores in intermediate or transient storage the communications made available through the provision of advanced communications services by a third party; or

“(2) provides an information location tool, such as a directory, index, reference, pointer, menu, guide, user interface, or hypertext link, through which an end user obtains access to such video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.

“(b) EXCEPTION.—The limitation on liability under subsection (a) shall not apply to any person who relies on third party applications, services, software, hardware, or equipment to comply with the requirements of this Act (or of the provisions of the Communications Act of 1934 that are amended or added by this Act) with respect to video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.”

PROPRIETARY TECHNOLOGY

Pub. L. 111-260, §3, Oct. 8, 2010, 124 Stat. 2752, provided that: “No action taken by the Federal Communications Commission to implement this Act [see Short Title of 2010 Amendment note set out under section 609 of this title] or any amendment made by this Act shall mandate the use or incorporation of proprietary technology.”

GREAT LAKES AGREEMENT

The Great Lakes Agreement, referred to in this section, relates to the bilateral Agreement for the Promotion of Safety on the Great Lakes by Means of Radio, signed at Ottawa, Canada, Feb. 21, 1952; entered into force Nov. 13, 1954, 3 UST 4926. A subsequent agreement for Promotion of Safety on the Great Lakes by Means of Radio, 1973, was signed at Ottawa, Canada, Feb. 26, 1973, and entered into force May 16, 1975, 25 UST 935.

SAFETY CONVENTION

The United States was a party to the International Convention for the Safety of Life at Sea, signed at London May 31, 1929, entered into force as to the United States, Nov. 7, 1936, 50 Stat. 1121, 1306. For subsequent International Conventions for the Safety of Life at Sea to which the United States has been a party, see section 1602 of Title 33, Navigation and Navigable Waters, and notes thereunder.

DEFINITIONS

Pub. L. 113-200, title I, §112, Dec. 4, 2014, 128 Stat. 2066, provided that: “In this title [amending sections 325, 338, 534, and 543 of this title and enacting provisions set out as notes under sections 325, 338, and 534 of this title]:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Energy and Commerce and the Committee on the Judiciary of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate.

“(2) COMMISSION.—The term ‘Commission’ means the Federal Communications Commission.”

Pub. L. 111-260, title II, §206, Oct. 8, 2010, 124 Stat. 2776, provided that: “In this title [amending sections 303, 330, and 613 of this title and enacting provisions set out as notes under sections 303 and 613 of this title]:

“(1) ADVISORY COMMITTEE.—The term ‘Advisory Committee’ means the advisory committee established in section 201 [47 U.S.C. 613 note].

“(2) CHAIRMAN.—The term ‘Chairman’ means the Chairman of the Federal Communications Commission.

“(3) COMMISSION.—The term ‘Commission’ means the Federal Communications Commission.

“(4) EMERGENCY INFORMATION.—The term ‘emergency information’ has the meaning given such term in section 79.2 of title 47, Code of Federal Regulations.

“(5) INTERNET PROTOCOL.—The term ‘Internet protocol’ includes Transmission Control Protocol and a successor protocol or technology to Internet protocol.

“(6) NAVIGATION DEVICE.—The term ‘navigation device’ has the meaning given such term in section 76.1200 of title 47, Code of Federal Regulations.

“(7) VIDEO DESCRIPTION.—The term ‘video description’ has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).

“(8) VIDEO PROGRAMMING.—The term ‘video programming’ has the meaning given such term in section 713 of the Communications Act of 1934 (47 U.S.C. 613).”

Pub. L. 105-33, title III, §3001(a), Aug. 5, 1997, 111 Stat. 258, provided that: “Except as otherwise provided in this title [enacting section 337 of this title, amending this section and sections 303, 309, and 923 to 925 of this title, enacting provisions set out as notes under sections 254, 309, and 925 of this title, and repealing provisions set out as a note under section 309 of this title], the terms used in this title have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section.”

Pub. L. 104-104, §3(b), Feb. 8, 1996, 110 Stat. 61, provided that: “Except as otherwise provided in this Act [see Short Title of 1996 Amendment note set out under section 609 of this title], the terms used in this Act have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section.”

§ 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.

(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

(1) A commissioner—

(A) shall be appointed for a term of 5 years;

(B) except as provided in subparagraph (C), may continue to serve after the expiration of the fixed term of office of the commissioner until a successor is appointed and has been confirmed and taken the oath of office; and

(C) may not continue to serve after the expiration of the session of Congress that begins after the expiration of the fixed term of office of the commissioner.

(2) Any person chosen to fill a vacancy in the Commission—

(A) shall be appointed for the unexpired term of the commissioner that the person succeeds;

(B) except as provided in subparagraph (C), may continue to serve after the expiration of the fixed term of office of the commissioner that the person succeeds until a successor is appointed and has been confirmed and taken the oath of office; and

(C) may not continue to serve after the expiration of the session of Congress that begins after the expiration of the fixed term of office of the commissioner that the person succeeds.

(3) 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, and 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) Repealed. Pub. L. 115-141, div. P, title IV, § 402(i)(1)(B), Mar. 23, 2018, 132 Stat. 1089.

(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) 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.

(l) 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.

(m) 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.

(n) 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.

(June 19, 1934, ch. 652, title I, § 4, 48 Stat. 1066; Jan. 22, 1936, ch. 25, 49 Stat. 1098; May 20, 1937, ch. 229, §§ 3, 4, 50 Stat. 190; Mar. 23, 1941, ch. 24, 55 Stat. 46; July 16, 1952, ch. 879, § 3, 66 Stat. 711; Aug. 13, 1954, ch. 735, § 2, 68 Stat. 729; Pub. L. 86-533, § 1(24), June 29, 1960, 74 Stat. 249; Pub. L. 86-619, § 2, July 12, 1960, 74 Stat. 407; Pub. L. 86-752, § 2, Sept. 13, 1960, 74 Stat. 889; Pub. L. 97-35, title XII, § 1251(b), Aug. 13, 1981, 95 Stat. 738; Pub. L. 97-253, title V, § 501(b)(1)-(3), Sept. 8, 1982, 96 Stat. 805, 806; Pub. L. 97-259, title I, §§ 102-104, Sept. 13, 1982, 96 Stat. 1087-1089; Pub. L. 98-214, §§ 10, 11, Dec. 8, 1983, 97 Stat. 1471; Pub. L. 99-272, title V, § 5002(b), Apr. 7, 1986, 100 Stat. 118; Pub. L. 99-334, § 1(a), June 6, 1986, 100 Stat. 513; Pub. L. 100-594, § 3, Nov. 3, 1988, 102 Stat. 3021; Pub. L. 101-396, §§ 3, 4, Sept. 28, 1990, 104 Stat. 848, 849; Pub. L. 102-538, title II, §§ 201, 208, Oct. 27, 1992, 106 Stat. 3542, 3543; Pub. L. 103-414, title III, § 303(a)(1), Oct. 25, 1994, 108 Stat. 4294; Pub. L. 104-66, title II, § 2051(b), Dec. 21, 1995, 109 Stat. 729; Pub. L. 104-104, title IV, § 403(a), (b), Feb. 8, 1996, 110 Stat. 130; Pub. L. 115-141, div. P, title IV, § 402(h)(1), (i)(1), title V, § 509, Mar. 23, 2018, 132 Stat. 1089, 1096.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

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

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

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.

CODIFICATION

In subsec. (f)(1), (2), “chapter 51 and subchapter III of chapter 53 of title 5” 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)(E), “section 1342 of title 31” 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

2018—Subsec. (b)(2)(B)(ii). Pub. L. 115-141, § 402(i)(1)(A), struck out before period at end “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”.

Subsec. (c). Pub. L. 115-141, § 509, amended subsec. (c) generally. Prior to amendment, text read as follows: “commissioners 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.”

Subsec. (g)(2). Pub. L. 115-141, § 402(i)(1)(B), struck out par. (2), which related to reimbursements to the Commission for necessary travel expenses.

Subsecs. (k) to (o). Pub. L. 115-141, § 402(h)(1), redesignated subsecs. (l) to (o) as (k) to (n), respectively, and struck out former subsec. (k). Prior to amendment, text of subsec. (k) read as follows: “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.”

1996—Subsec. (f)(3). Pub. L. 104-104, § 403(b), inserted before period at end “; and *Provided further*, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph”.

Subsec. (f)(4)(A). Pub. L. 104-104, § 403(a)(1), in first sentence, inserted “or administering” after “for purposes of preparing”, “of” after “than the class”, and “or administered” after “being prepared”.

Subsec. (f)(4)(B). Pub. L. 104-104, § 403(a)(2), (5), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “The Commission, for purposes of 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 license for which the examination is being conducted. 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. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this subparagraph."

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

Subsec. (f)(4)(H). Pub. L. 104-104, § 403(a)(5), redesignated subpar. (I) as (H). Former subpar. (H) redesignated (G).

Pub. L. 104-104, § 403(a)(3), substituted "subparagraphs (A) and (B)" for "subparagraphs (A), (B), and (C)".

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

Subsec. (f)(4)(J). Pub. L. 104-104, § 403(a)(4), (5), redesignated subpar. (J) as (I) and substituted "subparagraph (A) of this paragraph" for "subparagraph (A) or (B) of this paragraph" and struck out last sentence which read as follows: "The total amount of allowable cost reimbursement per examinee shall not exceed \$4, adjusted annually every January 1 for changes in the Department of Labor Consumer Price Index."

1995—Subsec. (f)(4)(J). Pub. L. 104-66 struck out at end "Such individuals and organizations shall maintain records of out-of-pocket expenditures and shall certify annually to the Commission that all costs for which reimbursement was obtained were necessarily and prudently incurred."

1994—Subsec. (f)(3). Pub. L. 103-414 substituted "overtime extends beyond" for "overtime exceeds beyond".

1992—Subsec. (g)(2)(D). Pub. L. 102-538, § 201, substituted "1994" for "1992".

Subsec. (g)(3). Pub. L. 102-538, § 208, added par. (3).

1990—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—Subsec. (g)(2)(D). Pub. L. 100-594 substituted "1989" for "1987".

1986—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), added subpar. (E).

1983—Subsec. (f)(4)(E) to (I). Pub. L. 98-214, § 10, added subpar. (E) and redesignated existing subpars. (E) to (H) as (F) to (I), respectively.

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

1982—Subsec. (a). Pub. L. 97-253, § 501(b)(1), substituted "five" for "seven".

Subsec. (b). Pub. L. 97-259, § 102, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Each member of the Commission shall be a citizen of the United States. No member of the Commission or person in its employ shall be financially interested in the manufacture or sale of radio apparatus or of apparatus for wire or radio communication; in communication by wire or radio or in radio transmission of energy; in any company furnishing services or such apparatus to any company engaged in communication by wire or radio or to any company manufacturing or selling apparatus used for communication by wire or radio; or in any company owning stocks, bonds, or other securities of any such company; nor be in the employ of or hold any official relation to any person subject to any of the provisions of this chapter, nor own stocks, bonds, or other securities of any corporation subject to any of the provisions of this chapter. Such commissioners shall not engage in any other business, vocation, profession, or employment. Any such commissioner serving as such after one year from July 16, 1952, shall not for a period of one year following the termination of his services as a commissioner represent any person before the Commission in a professional capacity, except that

this restriction shall not apply to any commissioner who has served the full term for which he was appointed. Not more than four members of the Commission shall be members of the same political party."

Pub. L. 97-253, § 501(b)(2), amended last sentence of subsec. (b), prior to the general amendment by Pub. L. 97-259, by substituting language identical to that contained in par. (5), as added by Pub. L. 97-259.

Subsec. (c). Pub. L. 97-259, § 103(a), struck out "The" before "commissioners" at beginning of 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), amended subsec. (d) generally, relating to the annual salary rate for the Chairman and Commissioners.

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 proviso after "its staff and equipment", relating to the content of first and second annual reports after the enactment of the Communications Act Amendments of 1952.

Subsec. (k)(3). Pub. L. 97-259, § 103(f), redesignated par. (4) as (3).

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

1981—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—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)(3). 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—Subsec. (f)(3). Act Aug. 13, 1954, substituted "engineers" for "inspectors" and "Field Engineering and Monitoring Bureau of the Federal Communications Commission" for "Field Division of the Engineering Department of the Federal Communications Commission" and extended provisions to include inspections required pursuant to the Great Lakes Agreement.

1952—Subsec. (b). Act July 16, 1952, § 3(a), prohibited commissioners from engaging in any other work except that they may 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 has completed his full term.

Subsec. (f). Act July 16, 1952, § 3(b), authorized Commission to appoint employees, allowed each commissioner to appoint a legal assistant, and a secretary, and allowed 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—Subsec. (f). Act Mar. 23, 1941, designated existing provisions as par. (1) and added par. (2).

1937—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—Subsec. (f). Act Jan. 22, 1936, inserted references to a chief accountant and three assistants.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-334, §1(b), June 6, 1986, 100 Stat. 513, provided that: "The amendment made by subsection (a) of this section [amending 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 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."

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-253, title V, §501(b)(4), Sept. 8, 1982, 96 Stat. 806, provided that: "The amendments made in paragraphs (1), (2), and (3) of this subsection [amending this section] shall take effect on July 1, 1983."

EFFECTIVE DATE OF 1954 AMENDMENT

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, effective May 15, 2000, of provisions in subsecs. (g)(2)(C) and (k) of this section relating to requirements to submit regular periodic reports to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 5th and 9th items on page 167 of House Document No. 103-7.

EFFECT ON AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION

Pub. L. 115-141, div. P, title IV, §403, Mar. 23, 2018, 132 Stat. 1090, provided that: "Nothing in this title [see Tables for classification] or the amendments made by this title shall be construed to expand or contract the authority of the Commission [Federal Communications Commission]."

ADDITIONAL REPORTS

Pub. L. 115-141, div. P, title IV, §404, Mar. 23, 2018, 132 Stat. 1090, provided that: "Nothing in this title [see Tables for classification] or the amendments made by this title shall be construed to prohibit or otherwise prevent the Commission from producing any additional reports otherwise within the authority of the Commission [Federal Communications Commission]."

OLDER AMERICANS PROGRAM

Pub. L. 100-594, §6, Nov. 3, 1988, 102 Stat. 3021, as amended by 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.) 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."

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."

Executive Documents

TRANSFER OF FUNCTIONS

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

EX. ORD. NO. 13913. ESTABLISHING THE COMMITTEE FOR THE ASSESSMENT OF FOREIGN PARTICIPATION IN THE UNITED STATES TELECOMMUNICATIONS SERVICES SECTOR

Ex. Ord. No. 13913, Apr. 4, 2020, 85 F.R. 19643, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Policy.* The security, integrity, and availability of United States telecommunications networks are vital to United States national security and law enforcement interests.

SEC. 2. *Definitions.* For purposes of this order:

(a) “License” means any license, certificate of public interest, or other authorization issued or granted by the Federal Communications Commission (FCC) after referral of an application by the FCC to the Committee established by subsection 3(a) of this order or, if referred before the date of this order [Apr. 4, 2020], to the group of executive departments and agencies involved in the review process that was previously in place.

(b) “Application” means any application, petition, or other request for a license or authorization, or the transfer of a license or authorization, that is referred by the FCC to the Committee established in subsection 3(a) of this order or that was referred by the FCC before the date of this order to the group of executive departments and agencies involved in the review process that was previously in place.

(c) “Intelligence Community” shall have the meaning assigned to it in subsection 3.5(h) of Executive Order 12333 of December 4, 1981 (United States Intelligence Activities), as amended [50 U.S.C. 3001 note].

(d) “Mitigation measures” shall mean both standard and non-standard mitigation measures.

(e) “Standard mitigation measures” shall be those measures agreed upon by the Committee Members (as defined in subsection 3(b) of this order) and Committee Advisors (as defined in subsection 3(d) of this order).

SEC. 3. *Establishment.* (a) There is hereby established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), the primary objective of which shall be to assist the FCC in its public interest review of national security and law enforcement concerns that may be raised by foreign participation in the United States telecommunications services sector. The function of the Committee shall be:

(i) to review applications and licenses for risks to national security and law enforcement interests posed by such applications or licenses; and

(ii) to respond to any risks presented by applications or licenses by recommending to the FCC, as appropriate and consistent with the provisions of this order, that it dismiss an application, deny an application, condition the grant of an application upon compliance with mitigation measures, modify a license with a condition of compliance with mitigation measures, or revoke a license.

(b) The Committee shall be composed of the following members (Committee Members):

- (i) the Secretary of Defense;
- (ii) the Attorney General;
- (iii) the Secretary of Homeland Security; and
- (iv) the head of any other executive department or agency, or any Assistant to the President, as the President determines appropriate.

(c) The Attorney General shall serve as Chair of the Committee (Chair).

(d) The following officials shall be advisors to the Committee (Committee Advisors) with no role in the duties set forth in sections 4 through 11 of this order except as provided in subsections 6(c), 9(f), 9(g), 10(g), and 11(d) of this order:

- (i) the Secretary of State;
- (ii) the Secretary of the Treasury;
- (iii) the Secretary of Commerce;
- (iv) the Director of the Office of Management and Budget;

- (v) the United States Trade Representative;
- (vi) the Director of National Intelligence;
- (vii) the Administrator of General Services;
- (viii) the Assistant to the President for National Security Affairs;
- (ix) the Assistant to the President for Economic Policy;

(x) the Director of the Office of Science and Technology Policy;

(xi) the Chair of the Council of Economic Advisers; and

(xii) any other Assistant to the President, as the President determines appropriate.

(e) The Committee Members and Committee Advisors may, subject to the limitations in this order, designate a senior executive from their entity to perform the functions described in this order on their behalf.

SEC. 4. *Duties of Committee Chair and Members.* (a) The Chair shall designate one or more Committee Members to serve as the lead for executing any function of the Committee (Lead Member). The Chair may assign to a Lead Member any or all of the following responsibilities as appropriate and consistent with their statutory authorities:

(i) submitting to applicants or licensees any questions or requests for information to establish facts about an application or license necessary to conduct the reviews and assessments described in sections 5 and 6 of this order;

(ii) identifying risks to national security or law enforcement interests of the United States raised by an application or license, in consultation, as appropriate, with other Committee Members;

(iii) coordinating with other Committee Members on the reviews and assessments described in sections 5 and 6 of this order;

(iv) proposing, in coordination with the Chair, any mitigation measures necessary to address any risk to national security or law enforcement interests of the United States identified through the risk-based analysis described in subsection 9(c) of this order;

(v) coordinating with other Committee Members and communicating with applicants or licensees regarding any mitigation measures necessary to address risks to national security and law enforcement interests of the United States;

(vi) monitoring compliance with, and coordinating with the Committee regarding, any mitigation measure the Committee recommends be imposed by the FCC as a condition on a license; or

(vii) any related responsibilities as specified by the Chair.

(b) Except as otherwise provided in this order, the Chair shall have the exclusive authority to act, or to authorize other Committee Members to act, on behalf of the Committee, including communicating with the FCC and with applicants or licensees on behalf of the Committee.

(c) In acting on behalf of the Committee, the Chair or a Lead Member, as applicable, shall keep the Committee fully informed of the Chair’s or Lead Member’s respective activities taken under this order and shall consult with the Committee before taking any material actions under this order.

SEC. 5. *Committee Application Review Process.* (a) The Committee shall review and assess applications to determine whether granting a license or the transfer of a license poses a risk to national security or law enforcement interests of the United States.

(b) Upon referral by the FCC of an application, the Committee shall conduct an initial review of the application to evaluate whether granting the requested license or transfer of license may pose a risk to national security or law enforcement interests of the United States.

(i) During the initial review, the Committee may determine:

- (A) that granting an application for a license or the transfer of a license raises no current risk to national security or law enforcement interests;

(B) that any identified risk to national security or law enforcement interests raised by an application may be addressed through standard mitigation measures recommended by the Committee; or

(C) that a secondary assessment of an application is warranted because risk to national security or law enforcement interests cannot be mitigated by standard mitigation measures.

(ii) If the Committee determines that granting the application does not raise a current risk to national security or law enforcement interests or that standard mitigation measures would mitigate any risk to national security or law enforcement interests, such a determination and any recommendations shall be communicated to the FCC in a manner consistent with sections 9 and 10 of this order.

(iii) Except as provided in subsection 5(d) of this order, any initial review shall be completed before the end of the 120-day period beginning on the date the Chair determines that the applicant's responses to any questions and information requests from the Committee are complete.

(c) When the Committee has determined that a secondary assessment of an application is warranted, it shall conduct such an assessment to further evaluate the risk posed to national security and law enforcement interests of the United States and to determine whether to make any recommendations pursuant to section 9 of this order. Any secondary assessment of an application shall be completed no more than 90 days after the Committee's determination that a secondary assessment is warranted. The Chair shall notify the FCC of a determination that a secondary assessment is warranted.

(d) During an initial review under subsection 5(b) of this order or a secondary assessment under subsection 5(c) of this order, if an applicant fails to respond to any additional requests for information after the Chair determines the responses are complete, the Committee may either extend the initial review or secondary assessment period or make a recommendation to the FCC to dismiss the application without prejudice. The Chair shall notify the FCC of a determination that the applicant's responses are complete, of any extensions of the initial review period, or when the Committee recommends dismissal under this subsection.

SEC. 6. Committee License Review Process. (a) The Committee may review existing licenses to identify any additional or new risks to national security or law enforcement interests of the United States.

(b) The Committee shall determine whether to review an existing license by majority vote of the Committee Members.

(c) If the Committee conducts such a review, it shall promptly notify the Committee Advisors.

SEC. 7. Threat Analysis by the Director of National Intelligence. (a) For each license or application reviewed by the Committee, the Director of National Intelligence shall produce a written assessment of any threat to national security interests of the United States posed by granting the application or maintaining the license. The Director of National Intelligence shall solicit and incorporate the views of the Intelligence Community, as appropriate.

(b) The analysis required under subsection (a) of this section shall be provided to the Committee within the earlier of 30 days from the date on which the Chair determines that an applicant's or licensee's responses to any questions and requests for information from the Committee are complete or 30 days from the date on which the Chair requests such an analysis. Such an analysis may be supplemented or amended as appropriate or upon a request for additional information by the Chair.

(c) The Director of National Intelligence shall ensure that the Intelligence Community continues to analyze and disseminate to the Committee any additional relevant information that may become available during the course of a review or assessment conducted with respect to an application or license.

SEC. 8. Requests for Information. In furtherance of its reviews and assessments of applications and licenses as described in this section, the Committee may seek information from applicants, licensees, and any other entity as needed. Information submitted to the Committee pursuant to this subsection and analysis concerning such information shall not be disclosed beyond Committee Member entities and Committee Advisor entities, except as appropriate and consistent with procedures governing the handling of classified or otherwise privileged or protected information, under the following circumstances:

(a) to the extent required by law or for any administrative or judicial action or proceeding, or for law enforcement purposes;

(b) to other governmental entities at the discretion of the Chair, provided that such entities make adequate assurances to the Chair that they will not further disclose the shared information, including to members of the public; or

(c) to the Committee on Foreign Investment in the United States with respect to transactions reviewed by that Committee pursuant to 50 U.S.C. 4565, in which case this information and analysis shall be treated consistent with the disclosure protections of 50 U.S.C. 4565(c).

SEC. 9. Recommendations by the Committee Pursuant to the Committee Review Process. (a) With respect to applications that are reviewed or assessed pursuant to section 5 of this order, the Committee shall:

(i) advise the FCC that the Committee has no recommendation for the FCC on the application and no objection to the FCC granting the license or transfer of the license;

(ii) recommend that the FCC deny the application due to the risk to the national security or law enforcement interests of the United States; or

(iii) recommend that the FCC only grant the license or transfer of the license contingent on the applicant's compliance with mitigation measures, consistent with section 10 of this order.

(b) With respect to a license reviewed pursuant to section 6 of this order, the Committee may, when appropriate:

(i) recommend that the FCC modify the license to include a condition of compliance with mitigation measures negotiated by the Committee;

(ii) recommend that the FCC revoke the license due to the risk to national security or law enforcement interests of the United States; or

(iii) take no action with respect to the license.

(c) Any recommendation made by the Committee pursuant to subsections (a) and (b) of this section shall be based on a written risk-based analysis, conducted by the Committee Member entity or entities proposing the denial, mitigation measures, modification, revocation, or no action.

(d) The Committee shall make the recommendations described in subsections (a)(ii), (a)(iii), (b)(i), and (b)(ii) of this section if it determines that there is credible evidence that the application or license poses a risk to the national security or law enforcement interests of the United States.

(e) The Committee shall attempt to reach consensus on any recommendation authorized by this order. If senior executive Committee officials designated pursuant to subsection 3(e) of this order cannot reach consensus on a recommendation, the Chair shall present the issue to the Committee Members, who shall determine the Committee recommendation by majority vote. If the vote results in a tie, the Chair shall determine the recommendation.

(f) If the Committee's determination is a recommendation to deny an application, to grant an application contingent on compliance with non-standard mitigation measures, to modify a license to condition it upon compliance with non-standard mitigation measures, or to revoke a license, the Chair shall notify the Committee Advisors and, to the extent consistent with applicable law, provide them all available assess-

ments, evaluations, or other analyses regarding such determination. Within 21 days of the notification, the Committee Advisors shall advise the Chair whether they oppose the recommendation.

(i) If one or more of the Committee Advisors opposes the recommendation, the senior executives designated by the Committee Members and Committee Advisors shall promptly confer in an effort to reach consensus on a recommendation. If consensus is reached, the recommendation shall be provided to the FCC consistent with subsection 9(h) of this order.

(ii) If the senior executives designated by the Committee Members and Committee Advisors do not reach consensus, the Chair shall present the issue to the Committee Members and the Committee Advisors to seek to resolve any objections within 30 days of the notification by the Chair of a recommendation to deny or to grant an application contingent on compliance with non-standard mitigation, or within 60 days in the case of a recommendation to modify a license to condition it upon compliance with non-standard mitigation measures or to revoke a license. Committee Members and Committee Advisors may consider any submissions by the Committee Advisors (e.g., a countervailing risk assessment), as appropriate.

(iii) If the Committee Members and Committee Advisors are unable to reach consensus through the foregoing process, the Committee Members identified in subsection 3(b) of this order shall determine a recommendation by majority vote. If the vote results in a tie, the Chair shall determine the recommendation.

(g) The Chair shall notify the President of any intended recommendation, and any opposition thereto by a Committee Member or Committee Advisor, within 7 days of a majority or tie vote held under subsection 9(e) or 9(f)(iii) of this order if either the recommendation or any opposition thereto by a Committee Member or Committee Advisor involves the denial of an application, granting an application contingent on non-standard mitigation measures, modifying a license to condition it upon compliance with non-standard mitigation measures, or revoking a license. The FCC will receive notice of the recommendation, consistent with subsection 9(h) of this order, not earlier than 15 days after the date on which the President is notified of the intended action.

(h) Except as provided in subsection (b)(iii) of this section, the Chair, on behalf of the Committee, shall notify the FCC through the Administrator of the National Telecommunications and Information Administration (NTIA) of a final recommendation made pursuant to this section. The Administrator of NTIA shall notify the FCC of the recommendation within 7 days of the notification from the Chair.

(i) As necessary and in accordance with applicable law and policy, including procedures governing the handling of classified or otherwise privileged or protected information, the Committee may consider classified information and otherwise privileged or protected information in determining what recommendation to make to the FCC through the Administrator of NTIA under this section, and may provide such information to the FCC as necessary on an ex parte basis.

SEC. 10. *Mitigation of Risk and Monitoring.* (a) The Committee may recommend to the FCC, consistent with section 9 of this order, that the FCC condition the granting of a license or transfer of a license on compliance with any mitigation measures in order to mitigate a risk to the national security or law enforcement interests of the United States arising from the application.

(b) The Committee may recommend to the FCC, consistent with section 9 of this order, that the FCC modify a license to condition it upon compliance with any mitigation measures in order to mitigate a risk to national security or law enforcement interests of the United States arising from the license.

(c) Consistent with subsection 4(a)(v) of this order, the Chair or assigned Lead Member shall communicate any mitigation measures proposed by the Committee to the applicant or licensee.

(d) Any mitigation measures negotiated pursuant to this section shall be based on a written risk-based analysis.

(e) The Committee shall monitor any mitigation measures imposed by the FCC as a condition on a license.

(i) Committee Member entities, as appropriate, shall report to the Committee regarding any material non-compliance with any mitigation measures imposed by the FCC as a condition on a license as a result of the Committee's recommendation under subsections (a) through (d) of this section.

(ii) The Committee, in consultation with the FCC, as appropriate, and in a manner that does not unduly constrain Committee resources, shall develop methods for monitoring compliance with any mitigation measures imposed by the FCC as a condition on a license as a result of the Committee's recommendation under subsections (a) through (d) of this section.

(f) If the Committee determines that a licensee has not complied with a mitigation measure and has not cured any such noncompliance in a satisfactory manner, the Committee may recommend actions consistent with subsection 9(b) of this order.

(g) When requested by the Chair, the Director of National Intelligence shall provide analyses assessing threats related to risk mitigation, compliance monitoring, and enforcement to Committee Member entities and Committee Advisor entities that are monitoring compliance with mitigation measures imposed by the FCC as conditions on licenses as a result of Committee recommendations under subsections (a) through (d) of this section.

(h) This order does not constrain the discretion of executive departments or agencies, pursuant to any relevant authority not described in this order, to:

(i) conduct inquiries with respect to an application or license;

(ii) communicate with any applicant, licensee, or other necessary party; or

(iii) negotiate, enter into, impose, or enforce contractual provisions with an applicant or licensee.

SEC. 11. *Implementation.* (a) Executive departments and agencies shall take all appropriate measures within their authority to implement the provisions of this order.

(b) The Department of Justice shall provide such funding and administrative support for the Committee as the Committee may require. The heads of executive departments and agencies shall provide, as appropriate and to the extent permitted by law, such resources, information, and assistance as required to implement this order within their respective agencies, including the assignment of staff to perform the duties described in this order. An Intelligence Community liaison designated by the Director of National Intelligence shall support the Committee, consistent with applicable law.

(c) Within 90 days from the date of this order, the Committee Members shall enter into a Memorandum of Understanding among themselves and with the Director of National Intelligence (or the Director's designee) describing their plan to implement and execute this order. The Memorandum of Understanding shall, among other things, delineate questions and requests for applicants and licensees that may be needed to acquire information necessary to conduct the reviews and assessments described in sections 5 and 6 of this order, define the standard mitigation measures developed in accordance with section 2(e) of this order, and outline the process for designating a Lead Member as described in section 4 of this order.

(d) The Chair, in coordination with the Committee Members and the Committee Advisors, shall review the implementation of this order and provide a report to the President on an annual basis that identifies recommendations for relevant policy, administrative, or legislative proposals.

SEC. 12. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals;

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) If any provision of this order, or the application of any provision to any person or circumstances, is held to be invalid, the remainder of this order and the application of any of its other provisions to any other persons or circumstances shall not be affected thereby.

DONALD J. TRUMP.

§ 155. Commission

(a) Chairman; duties; vacancy

The member of the Commission designated by the President as chairman shall be the chief executive officer of the Commission. It shall be his duty to preside at all meetings and sessions of the Commission, to represent the Commission in all matters relating to legislation and legislative reports, except that any commissioner may present his own or minority views or supplemental reports, to represent the Commission in all matters requiring conferences or communications with other governmental officers, departments or agencies, and generally to coordinate and organize the work of the Commission in such manner as to promote prompt and efficient disposition of all matters within the jurisdiction of the Commission. In the case of a vacancy in the office of the chairman of the Commission, or the absence or inability of the chairman to serve, the Commission may temporarily designate one of its members to act as chairman until the cause or circumstance requiring such designation shall have been eliminated or corrected.

(b) Organization of staff

From time to time as the Commission may find necessary, the Commission shall organize its staff into (1) integrated bureaus, to function on the basis of the Commission's principal workload operations, and (2) such other divisional organizations as the Commission may deem necessary. Each such integrated bureau shall include such legal, engineering, accounting, administrative, clerical, and other personnel as the Commission may determine to be necessary to perform its functions.

(c) Delegation of functions; exceptions to initial orders; force, effect and enforcement of orders; administrative and judicial review; qualifications and compensation of delegates; assignment of cases; separation of review and investigative or prosecuting functions; secretary; seal

(1) When necessary to the proper functioning of the Commission and the prompt and orderly conduct of its business, the Commission may, by published rule or by order, delegate any of its functions (except functions granted to the Commission by this paragraph and by paragraphs (4), (5), and (6) of this subsection and except any action referred to in sections 204(a)(2), 208(b), and 405(b) of this title) to a panel of commissioners,

an individual commissioner, an employee board, or an individual employee, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter; except that in delegating review functions to employees in cases of adjudication (as defined in section 551 of title 5), the delegation in any such case may be made only to an employee board consisting of two or more employees referred to in paragraph (8) of this subsection. Any such rule or order may be adopted, amended, or rescinded only by a vote of a majority of the members of the Commission then holding office. Except for cases involving the authorization of service in the instructional television fixed service, or as otherwise provided in this chapter, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, of any hearing to which such section applies.

(2) As used in this subsection the term "order, decision, report, or action" does not include an initial, tentative, or recommended decision to which exceptions may be filed as provided in section 409(b) of this title.

(3) Any order, decision, report, or action made or taken pursuant to any such delegation, unless reviewed as provided in paragraph (4) of this subsection, shall have the same force and effect, and shall be made, evidenced, and enforced in the same manner, as orders, decisions, reports, or other actions of the Commission.

(4) Any person aggrieved by any such order, decision, report or action may file an application for review by the Commission within such time and in such manner as the Commission shall prescribe, and every such application shall be passed upon by the Commission. The Commission, on its own initiative, may review in whole or in part, at such time and in such manner as it shall determine, any order, decision, report, or action made or taken pursuant to any delegation under paragraph (1) of this subsection.

(5) In passing upon applications for review, the Commission may grant, in whole or in part, or deny such applications without specifying any reasons therefor. No such application for review shall rely on questions of fact or law upon which the panel of commissioners, individual commissioner, employee board, or individual employee has been afforded no opportunity to pass.

(6) If the Commission grants the application for review, it may affirm, modify, or set aside the order, decision, report, or action, or it may order a rehearing upon such order, decision, report, or action in accordance with section 405 of this title.

(7) The filing of an application for review under this subsection shall be a condition precedent to judicial review of any order, decision, report, or action made or taken pursuant to a delegation under paragraph (1) of this subsection. The time within which a petition for review must be filed in a proceeding to which section 402(a) of this title applies, or within which an appeal must be taken under section 402(b) of this title, shall be computed from the date upon which public notice is given of orders disposing of all applications for review filed in any case.