

title, and subject to the provisions of section 301 of this title and subchapter V-A of this chapter, nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier, or (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (3) any carrier engaged in interstate or foreign communication solely through connection by radio, or by wire and radio, with facilities, located in an adjoining State or in Canada or Mexico (where they adjoin the State in which the carrier is doing business), of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (4) any carrier to which clause (2) or clause (3) of this subsection would be applicable except for furnishing interstate mobile radio communication service or radio communication service to mobile stations on land vehicles in Canada or Mexico; except that sections 201 to 205 of this title shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4) of this subsection.

(June 19, 1934, ch. 652, title I, § 2, 48 Stat. 1064; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Apr. 27, 1954, ch. 175, § 1, 68 Stat. 63; Feb. 21, 1978, Pub. L. 95-234, § 5, 92 Stat. 35; Oct. 30, 1984, Pub. L. 98-549, § 3(a), 98 Stat. 2801; Nov. 21, 1989, Pub. L. 101-166, title V, § 521(2), 103 Stat. 1193; July 26, 1990, Pub. L. 101-336, title IV, § 401(b)(1), 104 Stat. 369; Dec. 20, 1991, Pub. L. 102-243, § 3(b), 105 Stat. 2401; Aug. 10, 1993, Pub. L. 103-66, title VI, § 6002(b)(2)(B)(i), 107 Stat. 396.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Words “the Philippine Islands or” were omitted from this section on authority of Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which recognized the independence of the Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out under section 1394 of Title 22.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103-66 inserted “and section 332 of this title,” after “inclusive.”

1991—Subsec. (b). Pub. L. 102-243 substituted “Except as provided in sections 223 through 227 of this title, inclusive,” for “Except as provided in section 223 or 224 of this title”.

1990—Subsec. (b). Pub. L. 101-336, which directed substitution of “sections 224 and 225” for “section 224”, could not be executed because of the intervening amendment by Pub. L. 101-166 which substituted “section 223 or 224” for “section 224”. See 1989 Amendment note below.

1989—Subsec. (b). Pub. L. 101-166 substituted “section 223 or 224” for “section 224”.

1984—Subsec. (a). Pub. L. 98-549, § 3(a)(1), inserted provision making this chapter applicable with respect to cable service, to all persons engaged within the United

States in providing such service, and to the facilities of cable operators which relate to such service, as provided in subchapter V-A of this chapter.

Subsec. (b). Pub. L. 98-549, § 3(a)(2), inserted “and subchapter V-A of this chapter” after “section 301 of this title”.

1978—Subsec. (b). Pub. L. 95-234 substituted “Except as provided in section 224 of this title and subject” for “Subject”.

1954—Subsec. (b). Act Apr. 27, 1954, made it clear that intrastate communication service, whether by “wire or radio”, would not be subject to the Commission’s jurisdiction over charges, classifications, etc., and added cls. (3) and (4).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 521(3) of Pub. L. 101-166 provided that: “The amendments made by this subsection [probably should be “section”, which amended this section and section 223 of this title] shall take effect 120 days after the date of enactment of this Act [Nov. 21, 1989].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-549 effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 7 of Pub. L. 95-234 provided that: “The amendments made by this Act [enacting section 224 of this title, amending this section and sections 503 and 504 of this title, repealing sections 510 of this title, and enacting provisions set out as a note under section 609 of this title] shall take effect on the thirtieth day after the date of enactment of this Act [Feb. 21, 1978]; except that the provisions of sections 503(b) and 510 of the Communications Act of 1934 [sections 503(b) and 510 of this title], as in effect on such date of enactment, shall continue to constitute the applicable law with the respect to any act or omission which occurs prior to such thirtieth day.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 153, 225, 332 of this title.

§ 153. Definitions

For the purposes of this chapter, unless the context otherwise requires—

(a) “Wire communication” or “communication by wire” means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(b) “Radio communication” or “communication by radio” means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(c) “Licensee” means the holder of a radio station license granted or continued in force under authority of this chapter.

(d) “Transmission of energy by radio” or “radio transmission of energy” includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

(e) "Interstate communication" or "interstate transmission" means communication or transmission (1) from any State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, (2) from or to the United States to or from the Canal Zone, insofar as such communication or transmission takes place within the United States, or (3) between points within the United States but through a foreign country; but shall not, with respect to the provisions of subchapter II of this chapter (other than section 223 of this title), include wire or radio communication between points in the same State, Territory, or possession of the United States, or the District of Columbia, through any place outside thereof, if such communication is regulated by a State commission.

(f) "Foreign communication" or "foreign transmission" means communication or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and a mobile station located outside the United States.

(g) "United States" means the several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone.

(h) "Common carrier" or "carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

(i) "Person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

(j) "Corporation" includes any corporation, joint-stock company, or association.

(k) "Radio station" or "station" means a station equipped to engage in radio communication or radio transmission of energy.

(l) "Mobile station" means a radio-communication station capable of being moved and which ordinarily does move.

(m) "Land station" means a station, other than a mobile station, used for radio communication with mobile stations.

(n) "Mobile service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (1) both one-way and two-way radio communication services, (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.

(o) "Broadcasting" means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations.

(p) "Chain broadcasting" means simultaneous broadcasting of an identical program by two or more connected stations.

(q) "Amateur station" means a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest.

(r) "Telephone exchange service" means service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge.

(s) "Telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

(t) "State commission" means the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to intrastate operations of carriers.

(u) "Connecting carrier" means a carrier described in clauses (2), (3), or (4) of section 152(b) of this title.

(v) "State" includes the District of Columbia and the Territories and possessions.

(w)(1) "Ship" or "vessel" includes every description of watercraft or other artificial contrivance, except aircraft, used or capable of being used as a means of transportation on water, whether or not it is actually afloat.

(2) A ship shall be considered a passenger ship if it carries or is licensed or certificated to carry more than twelve passengers.

(3) A cargo ship means any ship not a passenger ship.

(4) A passenger is any person carried on board a ship or vessel except (1) the officers and crew actually employed to man and operate the ship, (2) persons employed to carry on the business of the ship, and (3) persons on board a ship when they are carried, either because of the obligation laid upon the master to carry shipwrecked, distressed, or other persons in like or similar situations or by reason of any circumstance over which neither the master, the owner, nor the charterer (if any) has control.

(5) "Nuclear ship" means a ship provided with a nuclear powerplant.

(x) "Radiotelegraph auto alarm" on a ship of the United States subject to the provisions of part II of subchapter III of this chapter means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the Commission. "Radiotelegraph auto alarm" on a foreign ship means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the government of the country in which the ship is registered: *Provided*, That the United States and the country in which the ship is registered are parties to the same treaty, convention, or agreement prescrib-

ing the requirements for such apparatus. Nothing in this chapter or in any other provision of law shall be construed to require the recognition of a radiotelegraph auto alarm as complying with part II of subchapter III of this chapter, on a foreign ship subject to part II of subchapter III of this chapter, where the country in which the ship is registered and the United States are not parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus.

(y)(1) "Operator" on a ship of the United States means, for the purpose of parts II and III of subchapter III of this chapter, a person holding a radio operator's license of the proper class as prescribed and issued by the Commission.

(2) "Operator" on a foreign ship means, for the purpose of part II of subchapter III of this chapter, a person holding a certificate as such of the proper class complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force, or complying with an agreement or treaty between the United States and the country in which the ship is registered.

(z)(1) "Radio officer" on a ship of the United States means, for the purpose of part II of subchapter III of this chapter, a person holding at least a first or second class radiotelegraph operator's license as prescribed and issued by the Commission. When such person is employed to operate a radiotelegraph station aboard a ship of the United States, he is also required to be licensed as a "radio officer" in accordance with chapter 71 of title 46.

(2) "Radio officer" on a foreign ship means, for the purpose of part II of subchapter III of this chapter, a person holding at least a first or second class radiotelegraph operator's certificate complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force.

(aa) "Harbor" or "port" means any place to which ships may resort for shelter or to load or unload passengers or goods, or to obtain fuel, water, or supplies. This term shall apply to such places whether proclaimed public or not and whether natural or artificial.

(bb) "Safety convention" means the International Convention for the Safety of Life at Sea in force and the regulations referred to therein.

(cc) "Station license", "radio station license", or "license" means that instrument of authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter, for the use or operation of apparatus for transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

(dd) "Broadcast station", "broadcasting station", or "radio broadcast station" means a radio station equipment to engage in broadcasting as herein defined.

(ee) "Construction permit" or "permit for construction" means that instrument of authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter for the construction of a station, or the installation of apparatus, for the trans-

mission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

(ff) "Great Lakes Agreement" means the Agreement for the Promotion of Safety on the Great Lakes by Means of Radio in force and the regulations referred to therein.

(June 19, 1934, ch. 652, title I, § 3, 48 Stat. 1065; May 20, 1937, ch. 229, § 2, 50 Stat. 189; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; July 16, 1952, ch. 879, § 2, 66 Stat. 711; Apr. 27, 1954, ch. 175, §§ 2, 3, 68 Stat. 64; Aug. 13, 1954, ch. 729, § 3, 68 Stat. 707; Aug. 13, 1954, ch. 735, § 1, 68 Stat. 729; Aug. 6, 1956, ch. 973, § 3, 70 Stat. 1049; Aug. 13, 1965, Pub. L. 89-121, § 1, 79 Stat. 511; May 3, 1968, Pub. L. 90-299, § 2, 82 Stat. 112; Sept. 13, 1982, Pub. L. 97-259, title I, § 120(b), 96 Stat. 1097; Aug. 10, 1993, Pub. L. 103-66, title VI, § 6002(b)(2)(B)(ii), 107 Stat. 396.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsecs. (e) and (g), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

Part II of subchapter III of this chapter, referred to in subsecs. (x), (y), and (z), is classified to section 351 et seq. of this title. Part III of subchapter III of this chapter, referred to in subsec. (y), is classified to section 381 et seq. of this title.

CODIFICATION

In subsec. (z)(1), "chapter 71 of title 46" substituted for "the Act of May 12, 1948 (46 U.S.C. 229a-h)" on authority of Pub. L. 98-89, § 2(b), Aug. 26, 1983, 97 Stat. 598, section 1 of which enacted Title 46, Shipping.

References to Philippine Islands in subsecs. (e) and (g) of this section omitted on authority of Proc. No. 2695, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, which proclamation recognized the independence of Philippine Islands as of July 4, 1946. Proc. No. 2695 is set out under section 1394 of Title 22.

AMENDMENTS

1993—Subsec. (n). Pub. L. 103-66, § 6002(b)(2)(B)(ii)(I), inserted cl. (1) designation and added cls. (2) and (3).

Subsec. (gg). Pub. L. 103-66, § 6002(b)(2)(B)(ii)(II), struck out subsec. (gg) which read as follows: "'Private land mobile service' means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation."

1982—Subsec. (n). Pub. L. 97-259, § 120(b)(2), substituted "a radio" for "the radio", inserted "or receivers" after "between mobile stations", and inserted provision that "mobile service" includes both one-way and two-way radio communication services.

Subsec. (gg). Pub. L. 97-259, § 120(b)(1), added subsec. (gg).

1968—Subsec. (e). Pub. L. 90-299 inserted "(other than section 223 of this title)" after "subchapter II of this chapter".

1965—Subsec. (w)(5). Pub. L. 89-121, § 1(1), added par. (5).

Subsec. (x). Pub. L. 89-121, § 1(2), among other changes, substituted "radiotelegraph auto alarm" for "auto-alarm" wherever appearing, "receiving apparatus which responds to the radiotelegraph alarm signal" for "receiver" in two places, and "country in which the ship is registered" for "country to which the ship belongs" and for "country of origin".

Subsec. (y). Pub. L. 89-121, § 1(3), struck out "qualified operator" from pars. (1) and (2), and substituted "coun-

try in which the ship is registered” for “country to which the ship belongs”.

Subsec. (z). Pub. L. 89-121, §1(4)(D), (E), added subsec. (z) and redesignated former subsec. (z) as (aa).

Subsec. (aa). Pub. L. 89-121, §1(4)(A), (D), redesignated former subsec. (z) as (aa) and former subsec. (aa) as (bb).

Subsecs. (bb) to (dd). Pub. L. 89-121, §1(4)(A), redesignated former subsecs. (aa) to (cc) as (bb) to (dd) and former subsec. (dd) as (ee).

Subsec. (ee). Pub. L. 89-121, §1(4)(A), (B), redesignated former subsec. (dd) as (ee), and repealed former subsec. (ee) which defined “existing installation”.

Subsec. (ff), (gg). Pub. L. 89-121, §1(4)(B), (C), redesignated subsec. (gg) as (ff) and repealed former subsec. (ff) which defined “new installation”.

1956—Subsec. (y)(2). Act Aug. 6, 1956, substituted “parts II and III of subchapter III of this chapter” for “part II of subchapter III of this chapter”.

1954—Subsec. (e). Act Apr. 27, 1954, §2, obviated any possible construction that the Commission is empowered to assert common-carrier jurisdiction over point-to-point communication by radio between two points within a single State when the only possible claim that such an operation constitutes an interstate communication rests on the fact that the signal may traverse the territory of another State.

Subsec. (u). Act Apr. 27, 1954, §3, inserted reference to clauses (3) and (4) of section 152(b) of this title.

Subsecs. (ee), (ff). Act Aug. 13, 1954, ch. 729, added subsecs. (ee) and (ff).

Subsec. (gg). “Great Lakes Agreement”. Act Aug. 13, 1954, ch. 735, added another subsec. (ee) which for purposes of codification was designated subsec. (gg).

1952—Subsecs. (bb) to (dd). Act July 16, 1952, added subsecs. (bb) to (dd).

1937—Subsecs. (w) to (aa). Act May 20, 1937, added subsecs. (w) to (aa).

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 6, 1956, effective Mar. 1, 1957, see section 4 of act Aug. 6, 1956, set out as an Effective Date note under section 381 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 13, 1954, ch. 735, 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.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 19 of act July 16, 1952, provided that: “This Act [enacting section 1343 of Title 18, Crimes and Criminal Procedure, amending this section and sections 154, 155, 307 to 312, 315, 316, 319, 402, 405, 409, and 410 of this title, and enacting provisions set out as notes under this section and section 609 of this title] shall take effect on the date of its enactment [July 16, 1952], but—

“(1) Insofar as the amendments made by this Act to the Communications Act of 1934 [this chapter] provide for procedural changes, requirements imposed by such changes shall not be mandatory as to any agency proceeding (as defined in the Administrative Procedure Act) [see sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees] with respect to which hearings have been commenced prior to the date of enactment of this Act [July 16, 1952].

“(2) The amendments made by this Act to section 402 of the Communications Act of 1934 [section 402 of this title] (relating to judicial review of orders and decisions of the Commission) shall not apply with respect to any action or appeal which is pending before any court on the date of enactment of this Act [July 16, 1952].”

GREAT LAKES AGREEMENT

The Great Lakes Agreement, referred to in this section, relates to the bilateral Agreement for the Pro-

motion 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.

CROSS REFERENCES

Charges or services, see section 202 of this title.

Contest for purposes of provisions relating to prohibited practices in contests of knowledge, skill, or chance, see section 509 of this title.

Employee as used in provisions relating to franks and passes, see section 210 of this title.

Line, see section 214 of this title.

Listening or viewing public for purposes of provisions relating to prohibited practices in contests of knowledge, skill, or chance, see section 509 of this title.

Overcharges as used in limitations of action provisions, see section 415 of this title.

Service or other valuable consideration as used in provisions relating to disclosure of payments to individuals connected with broadcasts, see section 508 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 332, 541, 556, 557, 741 of this title; title 7 section 924; title 15 section 78c; title 18 section 2510; title 22 section 1465ff.

§ 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;