

determination in any case the Commission shall consider whether the public interest, convenience, or necessity will be served by conducting the hearing at a place in, or in the vicinity of, the principal area to be served by the station involved.

(c) Agreement between two or more applicants; approval of Commission; pendency of application

(1) If there are pending before the Commission two or more applications for a permit for construction of a broadcasting station, only one of which can be granted, it shall be unlawful, without approval of the Commission, for the applicants or any of them to effectuate an agreement whereby one or more of such applicants withdraws his or their application or applications.

(2) The request for Commission approval in any such case shall be made in writing jointly by all the parties to the agreement. Such request shall contain or be accompanied by full information with respect to the agreement, set forth in such detail, form, and manner as the Commission shall by rule require.

(3) The Commission shall approve the agreement only if it determines that (A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement.

(4) For the purposes of this subsection an application shall be deemed to be "pending" before the Commission from the time such application is filed with the Commission until an order of the Commission granting or denying it is no longer subject to rehearing by the Commission or to review by any court.

(d) License for operation of station; agreement to withdraw application; approval of Commission

(1) If there are pending before the Commission an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station, only one of which can be granted, it shall be unlawful, without approval of the Commission, for the applicants or any of them to effectuate an agreement whereby one or more of such applicants withdraws his or their application or applications in exchange for the payment of money, or the transfer of assets or any other thing of value by the remaining applicant or applicants.

(2) The request for Commission approval in any such case shall be made in writing jointly by all the parties to the agreement. Such request shall contain or be accompanied by full information with respect to the agreement, set forth in such detail, form, and manner as the Commission shall require.

(3) The Commission shall approve the agreement only if it determines that (A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement.

(4) For purposes of this subsection, an application shall be deemed to be pending before the Commission from the time such application is filed with the Commission until an order of the

Commission granting or denying it is no longer subject to rehearing by the Commission or to review by any court.

(June 19, 1934, ch. 652, title III, § 311, 48 Stat. 1086; July 16, 1952, ch. 879, § 9, 66 Stat. 716; Pub. L. 86-752, § 5(a), Sept. 13, 1960, 74 Stat. 892; Pub. L. 97-35, title XII, § 1243, Aug. 13, 1981, 95 Stat. 737; Pub. L. 97-259, title I, § 116, Sept. 13, 1982, 96 Stat. 1095.)

Editorial Notes

AMENDMENTS

1982—Subsec. (c)(3). Pub. L. 97-259, § 116(a), inserted provision that the Commission may not approve the agreement if it determines that a party to the agreement filed its application for the purpose of reaching or carrying out the agreement, and struck out provision that if the agreement did not contemplate a merger, but contemplated the making of any direct or indirect payment to any party thereto in consideration of his withdrawal of his application, the Commission could determine the agreement to be consistent with the public interest, convenience, or necessity only if the amount or value of such payment, as determined by the Commission, was not in excess of the aggregate amount determined by the Commission to have been legitimately and prudently expended and to be expended by such applicant in connection with preparing, filing, and advocating the granting of his application.

Subsec. (d)(1). Pub. L. 97-259, § 116(b), substituted "an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station" for "two or more applications for a license granted for the operation of a broadcasting station".

Subsec. (d)(3)(B). Pub. L. 97-259, § 116(c), struck out "license" after "filed its".

1981—Subsec. (d). Pub. L. 97-35 added subsec. (d).

1960—Pub. L. 86-752 amended section generally, substituting provisions on requirements for certain applications for broadcasting service, for provisions directing the Commission to refuse a license or permit to any person whose license had been revoked by a court under section 313 of this title.

1952—Act July 16, 1952, omitted provisions relating to monopoly.

§ 312. Administrative sanctions

(a) Revocation of station license or construction permit

The Commission may revoke any station license or construction permit—

(1) for false statements knowingly made either in the application or in any statement of fact which may be required pursuant to section 308 of this title;

(2) because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application;

(3) for willful or repeated failure to operate substantially as set forth in the license;

(4) for willful or repeated violation of, or willful or repeated failure to observe any provision of this chapter or any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States;

(5) for violation of or failure to observe any final cease and desist order issued by the Commission under this section;

(6) for violation of section 1304, 1343, or 1464 of title 18; or

(7) for willful or repeated failure to allow reasonable access to or to permit purchase of

reasonable amounts of time for the use of a broadcasting station, other than a non-commercial educational broadcast station, by a legally qualified candidate for Federal elective office on behalf of his candidacy.

(b) Cease and desist orders

Where any person (1) has failed to operate substantially as set forth in a license, (2) has violated or failed to observe any of the provisions of this chapter, or section 1304, 1343, or 1464 of title 18, or (3) has violated or failed to observe any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States, the Commission may order such person to cease and desist from such action.

(c) Order to show cause

Before revoking a license or permit pursuant to subsection (a), or issuing a cease and desist order pursuant to subsection (b), the Commission shall serve upon the licensee, permittee, or person involved an order to show cause why an order of revocation or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters with respect to which the Commission is inquiring and shall call upon said licensee, permittee, or person to appear before the Commission at a time and place stated in the order, but in no event less than thirty days after the receipt of such order, and give evidence upon the matter specified therein; except that where safety of life or property is involved, the Commission may provide in the order for a shorter period. If after hearing, or a waiver thereof, the Commission determines that an order of revocation or a cease and desist order should issue, it shall issue such order, which shall include a statement of the findings of the Commission and the grounds and reasons therefor and specify the effective date of the order, and shall cause the same to be served on said licensee, permittee, or person.

(d) Burden of proof

In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission.

(e) Procedure for issuance of cease and desist order

The provisions of section 558(c) of title 5 which apply with respect to the institution of any proceeding for the revocation of a license or permit shall apply also with respect to the institution, under this section, of any proceeding for the issuance of a cease and desist order.

(f) "Willful" and "repeated" defined

For purposes of this section:

(1) The term "willful", when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this chapter or any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States.

(2) The term "repeated", when used with reference to the commission or omission of any

act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

(g) Limitation on silent station authorizations

If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness. Any broadcast license revoked or terminated in Alaska in a proceeding related to broadcasting via translator, microwave, or other alternative signal delivery is reinstated.

(June 19, 1934, ch. 652, title III, § 312, 48 Stat. 1086; July 16, 1952, ch. 879, § 10, 66 Stat. 716; Pub. L. 86-752, § 6, Sept. 13, 1960, 74 Stat. 893; Pub. L. 92-225, title I, § 103(a)(2)(A), Feb. 7, 1972, 86 Stat. 4; Pub. L. 97-259, title I, § 117, Sept. 13, 1982, 96 Stat. 1095; Pub. L. 104-104, title IV, § 403(l), Feb. 8, 1996, 110 Stat. 132; Pub. L. 106-554, § 1(a)(4) [div. B, title I, § 148(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-251; Pub. L. 108-447, div. J, title IX [title II, § 213(3)], Dec. 8, 2004, 118 Stat. 3431.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(4), (b), and (f)(1), 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.

CODIFICATION

In subsec. (e), "section 558(c) of title 5" substituted for "section 1008(b) of title 5" 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.

AMENDMENTS

2004—Subsec. (g). Pub. L. 108-447 inserted before period at end "", except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness. Any broadcast license revoked or terminated in Alaska in a proceeding related to broadcasting via translator, microwave, or other alternative signal delivery is reinstated".

2000—Subsec. (a)(7). Pub. L. 106-554 inserted "", other than a non-commercial educational broadcast station," after "use of a broadcasting station".

1996—Subsec. (g). Pub. L. 104-104 added subsec. (g).

1982—Subsec. (f). Pub. L. 97-259 added subsec. (f).

1972—Subsec. (a)(7). Pub. L. 92-225 added par. (7).

1960—Subsecs. (a), (b). Pub. L. 86-752 inserted provisions referring to sections 1304, 1343 and 1464 of title 18.

1952—Act July 16, 1952, amended section generally to provide for revocation of licenses and permits only for acts willfully and knowingly committed or for disregarding cease and desist orders, and to authorize the Commission to issue cease and desist orders.

Statutory Notes and Related Subsidiaries

REPEALS

Repeal of title I of Pub. L. 92-225, cited as a credit to this section, by Pub. L. 93-443, title II, §205(b), Oct. 15, 1974, 88 Stat. 1278, has been construed as not repealing the amendment to this section made by section 103(a)(2)(A) of such title I.

DECLINATION OF POLITICAL ADVERTISING BY
EDUCATIONAL BROADCAST STATIONS

Pub. L. 106-554, §1(a)(4) [div. B, title I, §148(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-251, provided that: "The Federal Communications Commission shall take no action against any non-commercial educational broadcast station which declines to carry a political advertisement."

§ 312a. Revocation of operator's license used in unlawful distribution of controlled substances

The Federal Communications Commission may revoke any private operator's license issued to any person under the Communications Act of 1934 (47 U.S.C. 151 et seq.) who is found to have willfully used said license for the purpose of distributing, or assisting in the distribution of, any controlled substance in violation of any provision of Federal law. In addition, the Federal Communications Commission may, upon the request of an appropriate Federal law enforcement agency, assist in the enforcement of Federal law prohibiting the use or distribution of any controlled substance where communications equipment within the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 is willfully being used for purposes of distributing, or assisting in the distribution of, any such substance.

(Pub. L. 99-570, title III, §3451, Oct. 27, 1986, 100 Stat. 3207-103.)

Editorial Notes

REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to this chapter (§151 et seq.). For complete classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

Section was enacted as part of the Anti-Drug Abuse Act of 1986, and also as part of the National Drug Interdiction Improvement Act of 1986, and not as part of the Communications Act of 1934 which comprises this chapter.

§ 313. Application of antitrust laws to manufacture, sale, and trade in radio apparatus**(a) Revocation of licenses**

All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade are declared to be applicable to the manufacture and sale of and to trade in radio apparatus and devices entering into or affecting interstate or foreign commerce and to interstate or foreign radio communications. Whenever in any suit, action, or proceeding, civil or criminal, brought under the provisions of any of said laws or in any proceedings brought to enforce or to

review findings and orders of the Federal Trade Commission or other governmental agency in respect of any matters as to which said Commission or other governmental agency is by law authorized to act, any licensee shall be found guilty of the violation of the provisions of such laws or any of them, the court, in addition to the penalties imposed by said laws, may adjudge, order, and/or decree that the license of such licensee shall, as of the date the decree or judgment becomes finally effective or as of such other date as the said decree shall fix, be revoked and that all rights under such license shall thereupon cease: *Provided, however*, That such licensee shall have the same right of appeal or review as is provided by law in respect of other decrees and judgments of said court.

(b) Refusal of licenses and permits

The Commission is hereby directed to refuse a station license and/or the permit hereinafter required for the construction of a station to any person (or to any person directly or indirectly controlled by such person) whose license has been revoked by a court under this section.

(June 19, 1934, ch. 652, title III, §313, 48 Stat. 1087; Pub. L. 86-752, §5(b), Sept. 13, 1960, 74 Stat. 893.)

Editorial Notes

AMENDMENTS

1960—Pub. L. 86-752 designated existing provisions as subsec. (a) and added subsec. (b).

Executive Documents

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Trade Commission were, with certain exceptions, transferred to the Chairman of such Commission by Reorg. Plan No. 8 of 1950, §1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

§ 314. Competition in commerce; preservation

After the effective date of this chapter no person engaged directly, or indirectly through any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such person, or through an agent, or otherwise, in the business of transmitting and/or receiving for hire energy, communications, or signals by radio in accordance with the terms of the license issued under this chapter, shall by purchase, lease, construction, or otherwise, directly or indirectly, acquire, own, control, or operate any cable or wire telegraph or telephone line or system between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any foreign country, or shall acquire, own, or control any part of the stock or other capital share or any interest in the physical property and/or other assets of any such cable, wire, telegraph, or telephone line or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or unlaw-