

Secs. 3 and 4.
T. 93 S., R. 177 W., (Unsurveyed)
Sec. 8.
T. 93 S., R. 179 W., (Unsurveyed)
Sec. 28.

The areas described aggregate approximately 13,968.61 acres.

2. Prior to conveyance of any of the lands withdrawn by this order, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal.

3. This order constitutes final withdrawal action by the Secretary of the Interior under section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), to make lands available for selection by the Atxam Corporation, to fulfill the entitlement of the village for Atka under Section 12 and Section 14(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 and 1613 (1988).

4. This withdrawal will terminate 120 days from the effective date of this order; provided, any lands selected shall remain withdrawn pursuant to this order until conveyed. Any lands described in this order not selected by the corporation shall remain withdrawn as part of the Alaska Peninsula National Wildlife Refuge or the Alaska Maritime National Wildlife Refuge, pursuant to Sections 302(1), 303(1) and 304(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1988); and will be subject to the terms and conditions of any other withdrawal of record.

5. It has been determined that this action is not expected to have any significant effect on subsistence uses and needs pursuant to Section 810 of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3120(c) (1988) and this action is exempted from the National Environmental Policy Act of 1969, 42 U.S.C. 4321 note (1988), by Section 910 of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1638 (1988).

Dated: January 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92-265; FCC 94-326]

Cable Television Act of 1992—Program Distribution and Carriage Agreements

AGENCY: Federal Communications Commission.

ACTION: Final rule; Petition for reconsideration; denial.

SUMMARY: In this Memorandum Opinion and Order (MO&O) the Commission denies a petition for reconsideration of its rule that prohibits exclusive programming contracts between cable operators and satellite cable or satellite broadcast programming vendors in which a cable operator has an attributable interest, in areas unserved by cable. The rule was promulgated to implement section 19 of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act). The Commission held that the rule is a reasonable interpretation of the 1992 Cable Act and that there are other provisions in the Act under which a distributor can challenge a non-cable distributor's exclusive contract.

EFFECTIVE DATE: February 13, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Markowitz or Maura Cantrill, Cable Services Bureau, (202) 416-0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commissions Memorandum Opinion and Order adopted December 15, 1994 and released December 23, 1994. A synopsis of the First Report and Order (First R&O) that was reconsidered in the MO&O may be found at 58 FR 27658 (May 11, 1993). This action will not add or decrease the public reporting burden. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Washington, DC 20037.

Synopsis of Memorandum Opinion and Order

I. Introduction

1. By this action, the Commission denies National Rural Telecommunications Cooperative's (NRTC) petition for reconsideration of the Commission's rule implementing section 628(c)(2)(C) of the Cable

Television Consumer Protection and Competition Act of 1992 (1992 Cable Act).¹ The rule was adopted in the First Report and Order in MM Docket 92-265 (First R&O), 8 FCC Rcd 3359 (1993); 58 FR 27658 (May 11, 1993).

2. The 1992 Cable Act amended the Communications Act of 1934, in part, by adding a new section 628. Section 628 is intended to foster the development of competition to traditional cable systems by providing greater access by competing multichannel systems to cable programming services. Section 628(b) of the 1992 Cable Act generally prohibits "unfair" or "deceptive" practices the purpose or effect of which is to prevent a distributor from providing programming to subscribers or consumers and section 628(c) proscribes specific conduct that the Commission shall prohibit in its rules. The Act provides that the regulations promulgated to implement section 628(c)(2)(C) must:

Prohibit practices, understandings, arrangements, and activities, including exclusive contracts for satellite cable programming or satellite broadcast programming between a cable operator and a satellite cable programming vendor or satellite broadcast programming vendor, that prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest or any satellite broadcast programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section.

Section 76.1002(c)(1) of the Commission's rules adopted in the First R&O to implement this section of the 1992 Cable Act prohibits exclusive contracts between cable operators and vertically integrated programmers in areas that are not served by cable operators. NRTC filed a petition for reconsideration of the First R&O, requesting the Commission to amend its implementing rule to include any behavior of a vertically integrated programmer that prevents any distributor from obtaining programming in areas not served by cable, and specifically exclusive contracts for the distribution of programming between direct broadcast satellite ("DBS") distributors and vertically integrated satellite cable programming vendors.

II. Background

3. The 1992 Cable Act and its legislative history indicate that Congress

¹ Pub. L. No. 102-385, 106 Stat. 1460 section 19 (1992), amending Communications Act of 1934, section 628.