

Proposed Revisions to Complaint Procedures

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The FCC has proposed revised procedures for informal complaints.

The major effect of the change will be to shift much of the burden for programming complaints from viewers and listeners to broadcasters. At present, the Commission generally requires a recording or reliable transcript of a program before considering a complaint. Broadcasters felt that this requirement protected them from complaints based upon rumors or inaccurate recollections of matters that were actually aired. Consumer groups, though, protested the difficulty of recording a broadcast or preparing a transcript in typical viewing and listening situations, as in a car. The new proposal eliminates this threshold requirement.

The new procedures are modeled upon rules which currently apply to common carriers. Although the vast majority of consumer complaints received by the Commission involve telephone rates or "slamming" (the unauthorized transfer of long distance service to a new provider), the current initiative is triggered in significant part by the increasing visibility, if not the number, of complaints over broadcast programming. Commissioner Copps, in particular, has expressed concern over unsuitable program content and the difficulty with which concerned listeners and viewers can find a meaningful industry response.

Under the proposal, consumers would be encouraged to address their concerns directly to broadcasters before involving the Commission. Even so, there is no requirement to engage in such communications before filing an informal complaint (or, for that matter, a formal complaint) with the FCC. An informal complaint would be required to include the following elements:

- The name and address of the company against which the complaint is being made, together with the station call sign or network affiliation.
- Details about the program or problem.
- A statement of facts describing how the broadcaster has acted or failed to act as required by FCC rules or policies.
- The specific action which the complainant seeks.

The Commission has requested comments on whether any additional information or documentation should be required. The Commission further asks whether complaints must be in writing or whether telephonic or email submission should be encouraged to accelerate the process. The Commission has also questioned whether it should impose a time limit, such as two years, within which an informal complaint must be filed after a cause has arisen.

Once filed, the complaint would be forwarded by FCC staff to the broadcaster, program provider or other appropriate parties who would then have a period (which the Commission suggests as 30 days) within which to respond. The staff would then either determine that the matter is resolved or contact the complainant regarding its review and disposition of the matters.

This procedure is not intended to supplant any enforcement or other action which the staff might take as the result of an informal complaint. Rather, the purpose of the procedure is to

engage the parties in dialogue and to afford Commission staff an opportunity to facilitate a mutually acceptable resolution. However, the staff's experience has been almost entirely with complaints over telephone bills, service failures and the like, which generally seek monetary redress and are amenable to resolution in the context of an informal mediation procedure. Most programming complaints, though, tend to be more ideological and may not turn out to be as readily resolved. Even so, the staff believes that submission of an informal complaint, and the broadcaster's obligation to respond, will add an additional level of scrutiny and will increase the amount of information the staff and consumers will have available.

If a complainant is dissatisfied with the outcome of the informal procedure, then a formal complaint may be filed. The Commission proposes that this would need to be done within 60 days of disposition of an unsatisfied informal complaint, although a formal complaint could be filed directly, without the need to proceed first through the informal complaint mechanism. The Commission seeks comment as to the requirements and procedures that would govern formal complaints. (The procedure currently in place for common carrier formal complaints is a major undertaking tantamount to launching a lawsuit and could discourage consumers - the very result the new informal procedure is intended to remedy.)

So as not to discourage complainants concerned with their privacy, the Commission intends to treat all informal complaints as confidential and unavailable for public inspection. At the same time, the Commission will exempt informal complaints from its *ex parte* rules, so as to allow its staff to meet or otherwise communicate with the parties.

The Commission has invited comments on its proposal, to be filed by May 16, 2002. Replies are due by May 31, 2002.

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