



PUBLIC NOTICE

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DA 96-1650

Released September 30, 1996

OFFICE OF ENGINEERING AND TECHNOLOGY AND INTERNATIONAL BUREAU
ESTABLISH PROCEDURES GOVERNING FURTHER CONSIDERATION OF
PIONEER'S PREFERENCE REQUESTS FOR THE SATELLITE DIGITAL AUDIO
RADIO SERVICE

IB Docket No. 95-91
GEN Docket No. 90-357
RM No. 8610
PP-24
PP-86
PP-87

Pending before the Commission are requests for pioneer's preferences in the satellite digital audio radio service (DARS) filed by Primosphere Limited Partnership (Primosphere), Digital Satellite Broadcasting Corporation (DSBC), and Satellite CD Radio, Inc. (CD Radio). These parties, along with American Mobile Radio Corporation (AMRC), each have pending DARS license applications. In the Notice of Proposed Rulemaking in IB Docket No. 95-91, the Commission announced that "[t]he individual satellite DARS applications and pioneer's preference proceedings are restricted proceedings, to the extent that any party has formally opposed an application or pioneer's preference request. Ex parte presentations concerning any formally opposed application or request are prohibited." Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, Notice of Proposed Rulemaking in IB Docket No. 95-91, 11 FCC Rcd 1, 38 ¶ 123 (1996), citing 47 C.F.R. § 1.1208; see also Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services, 6 FCC Rcd 3488, 3493 ¶ 42 (1991).

Although no parties have formally opposed (see 47 C.F.R. § 1.1202(e)) any of the pending DARS pioneer's preference requests, pursuant to 47 C.F.R. §§ 1.1200(a) and 1.1208(c)(5), we have determined that these adjudicative proceedings should hereinafter be restricted. Accordingly, ex parte presentations made to or from decision-making personnel in the DARS pioneer's preference proceedings are prohibited until the Commission's final disposition of each is no longer subject to reconsideration or judicial review. Members of

the panel organized by the Office of Engineering and Technology and the International Bureau to review the DARS pioneer's preference requests (see below) are to be deemed decision-making personnel for purposes of the ex parte rules. The above-referenced parties (CD Radio, DSBC, Primosphere and AMRC) shall be deemed to be parties to all of the pioneer's preference proceedings for purposes of the ex parte rules.

On August 30, 1996, the Office of Engineering and Technology together with the International Bureau established a panel of four experts in the field of satellite communications to review the pioneer's preference requests filed by CD Radio, DSBC, and Primosphere. In addition to the requests, the panel received other documents related to the requests as well as other relevant documents from the satellite DARS rulemaking proceeding. The panel will submit to the Commission its written recommendation on each of the three requests after review of all relevant documents.

Several parties have requested that the Commission forward additional documents or comments to be considered by the panel. We will permit filing of any new submissions or additional designations of documents until the close of business on October 2, 1996. Submissions filed by that date will be forwarded to the panel. We encourage parties to be brief in any submissions they may file.

Upon completion of the panel's review, we will promptly issue a public notice seeking comment on its recommendations.

Action by the Chief, Office of Engineering and Technology, and the Chief, International Bureau, Federal Communications Commission.