

otherwise inconsistent with its public broadcasting responsibilities.

DATE: Effective July 5, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order, Proceeding Terminated

In the matter of amendment of § 73.593 of the Commission's rules, BC Docket No. 82-1.

Adopted: April 7, 1983.

Released: June 3, 1983.

By the Commission: Commissioner Fogarty absent.

I. Introduction

1. The Commission has before it the *Notice of Proposed Rule Making* in this proceeding (47 FR 2384, published January 15, 1982).¹ In the *Notice* we proposed to amend the provisions of § 73.593 of the Commission's Rules which govern the use of Subsidiary Communications Authorization ("SCA") by noncommercial educational FM stations.²

2. Section 73.593 of the Commission's Rules permits noncommercial educational FM stations to conduct subcarrier operations, but it places a limit on the subcarrier service these stations can provide. Unlike commercial FM stations, these stations are not permitted to use their subcarrier capacity for remunerative purposes. Instead, they are limited to noncommercial uses in furtherance of the station's overall educational purpose. In issuing the *Notice*, the Commission questioned whether it was appropriate to maintain these limitations, particularly in light of recent amendments to the Communications Act.³ Section 399B of the

47 CFR Part 73

[BC Docket No. 82-1; FCC 83-155]

**Radio Broadcast Services;
Amendment of the Commission's
Rules**

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action, initiated on the Commission's own motion, revises § 73.593 of the Commission's Rules to permit noncommercial educational FM stations to use their subcarrier capacity for remunerative purposes. This will enable these stations to obtain funds that are needed for their support. If a station engages in remunerative use of its subcarrier capacity, it must ensure that such use is not detrimental to the provision of existing or potential radio reading services for the blind or

¹In addition, we have before us the comments and reply comments submitted in response to the *Notice of Proposed Rule Making* in BC Docket No. 82-536 (47 FR 48116 (1982)) which explores a wide range of subcarrier issues affecting both commercial and noncommercial educational FM stations. Because of the overlapping nature of the issues in these two proceedings, insofar as public radio stations are concerned, the Commission earlier decided to act on both *Notices* simultaneously. To the extent that the comments in BC Docket No. 82-536 bear upon the issues in this proceeding, they are considered and resolved herein. The balance of the issues in 82-536 are addressed in a companion *Report and Order* adopted today.

²These stations also are referred to as public radio stations. The two terms are used interchangeably herein.

³Public Broadcasting Amendments Act of 1981 (Pub. L. 97-35) (hereinafter the "1981 Amendments").

Communications Act, which was added as part of the 1981 Amendments, gave public broadcasters the authority to use their facilities for remunerative purposes.⁴ The legislative history of the provision clearly reflects Congress' expectation that public stations do more to provide their own support in view of anticipated reductions in the level of government funding for such stations. Thus, the Commission inaugurated this proceeding to consider whether the subcarrier capacity of these stations could be used to obtain additional funds. Some background about subcarriers will help put the current proposal in context.

3. In addition to the programming FM stations present on their main channel, all FM stations have the capacity to program one or more subcarriers on a multiplex basis. One of these subcarriers may be used to provide the second signal needed for stereo operation. Conventional FM sets can receive the main channel and if they are so designed, the stereo channel as well. However, these sets are unable to receive other subcarrier signals that can be heard only on special receivers. In addition to the stereo signal, FM stations have one other subcarrier channel available for use.⁵

4. In conducting subcarrier operations, commercial and noncommercial FM stations are subject to the same engineering standards. Likewise, both are allowed to conduct subcarrier operations themselves or to contract with another party to act on their behalf. Moreover, in both instances, the required subcarrier receivers are made available by the party conducting the subcarrier operation. However, there are differences between commercial and noncommercial stations with respect to how they may use their subcarriers. In the case of commercial FM stations, the subcarrier operation can be run on profit making basis, with the subscriber paying a substantial monthly fee. Public radio stations, on the other hand, can only use the subcarrier for an educational purpose. In addition, they are limited by the provisions of Section 73.593 of the Commission's Rules to

conducting subcarrier operations on a non-profit basis. Although this Section does allow public broadcasters to charge fees for providing instructional material to subscribers,⁶ these fees are not permitted to exceed the cost of providing this service.⁷

5. Because of the current restrictions, only a small portion of noncommercial stations actually offer subcarrier service of any kind. For those that do, radio reading services for the blind represents the most frequent use.⁸ By way of contrast, § 73.293 of the Commission's Rules gives commercial FM stations much greater latitude in the use of their subcarriers. They are allowed to use them commercially to present a wide variety of "broadcast like" material. The most frequent of these uses is the transmission of background music for stores and offices. In addition, in BC Docket No. 81-352, the Commission made it possible for commercial stations to use their subcarriers for utility load management, a non-broadcast use.⁹ Moreover, in BC Docket No. 82-536 the Commission proposed, and is today adopting, a substantial expansion in the range of permissible broadcast and non-broadcast uses for commercial station subcarriers. These changes are clearly important for public broadcasters as well, because in this proceeding we proposed to allow public broadcasters the same flexibility in using their subcarriers as is accorded commercial FM stations.

II. The Comments

6. A large number of comments and reply comments was filed in response to the *Notice*.¹⁰ Comments in support of the Commission's proposal were filed by public broadcasting licensees and organizations and by companies interested in making use of the subcarrier capacity of public stations. Comments in opposition to the Commission's proposal were filed by radio reading services and by organizations representing the blind. In addition to these comments on the issues directly raised by the *Notice*,

⁴ Section 73.593 specifies that charges can be made only for instructional material presented by or in conjunction with a bona fide educational institution or which is directed to the special needs of its particular subcarrier audience.

⁵ In calculating these costs, § 73.593(e)(1)(ii) allows a station to include appropriate portions of its general overhead and operational costs.

⁶ Radio reading services serve all who are unable to use written material, including those who are unable to hold written material, those who suffer from reading difficulties, such as dyslexia, as well as persons who are blind.

⁷ *Report and Order*, 47 FR 1368 [January 13, 1982].

⁸ These comments and replies are listed in Appendix B hereto.

many of the supporting and opposing comments urged an expansion of the FM baseband so that each station could have an additional subcarrier channel. Although they approach this point from different perspectives, both sides agree that making an additional subcarrier channel available to each station could help respond to the various demands for subcarrier use, including reading services. Furthermore, comments directed to the impact and implications for public broadcasting of the availability of two subcarrier channels were filed by public radio station and radio reading service interests in BC Docket No. 82-536, where we explicitly proposed expansion of the FM baseband. These comments, as well as those filed here which urged and anticipated making an additional subchannel available, will be considered below.¹¹

A. Comments in Support of the Proposal

7. *Public Radio Stations Need to Provide More of Their Own Support*—Virtually all of the comments in favor of the proposal assert that public radio stations need to use their subcarrier capacity as a fund raising mechanism to help replace previously available federal funds. For example, National Public Radio ("NPR") asserts that the federal contribution to public broadcasting of \$172 million for fiscal year 1982 is being reduced to \$137 million for fiscal year 1983. For fiscal years 1984, 1985 and 1986, the federal contribution may be no higher than \$130 million each year. NPR insists that these sums fall far short of public broadcasting needs. Taking the effects of inflation into account, it states that public broadcasters will be hard pressed unless alternative funding sources are developed. This view is repeated in various other comments which assert a similar general need for additional funds. Some areas, such as Alaska, are said to be in even greater need. According to the Alaska Public Broadcasting Commission ("APBC"), the problem is particularly acute there because the communities are so small. APBC asserts that this means there are fewer local sources of funds. Consequently, APBC states that the typical Alaskan station is able to raise only 10 percent of its support locally, only about one-third of the national average.

8. *Remunerative Subcarrier Use Can Contribute to Station Support*—Virtually

¹¹ A detailed summary of the comments and reply comments filed in BC Docket No. 82-536 addressing public telecommunications issues is attached hereto as Appendix C.

all of the public broadcast comments make general reference to the revenue generating opportunities that the subcarrier could provide, but most do not provide specific information. There were exceptions, such as the licensee of public radio station KLYT(FM) which notes that two groups have already approached it about leasing its subcarrier capacity. One of these groups proposes to use the subcarrier for stock market reports, while the other would transmit background music. Support for the proposal also comes from MUZAK and Bonneville International, two companies already involved in using subcarriers on commercial stations. They assert that there is sufficient demand to support use of subcarriers on public radio stations, and they think this expansion can help ensure the availability of low cost, high quality subcarrier facilities. In fact, without this expansion, they think the number of available subcarrier channels will not be sufficient to accommodate the specialized programming and other subcarrier uses that are being developed. Given this demand, they are convinced that there is a substantial revenue potential that can be used by public radio stations in the same way commercial FM stations did in their early days when revenues were inadequate to support main channel station operation. Overall, they believe that these revenues would make an important contribution to supporting the principal noncommercial services being provided by stations on their main channels.¹²

9. Remunerative Subcarrier Use Reflects the Will of Congress—

According to supporters of the proposal, Congress has called upon public broadcasters to provide more of their own support and at the same time has given them the means to do so. In particular, they point to the statutory provisions in Section 399B(b)(1) of the Communications Act which allow public broadcasters to engage in entrepreneurial activities through the "offering of services, facilities, or products" in exchange for remuneration.¹³ As they read this

language, Congress intended the Commission to authorize public stations to use their facilities creatively to earn extra revenues. On this basis, they assert that the present Commission prohibition on remunerative subcarrier use is inconsistent with the intent of Congress. According to these parties, leasing a subchannel for commercial purposes, as the Commission proposes to allow, is an "offering of a facility" as contemplated under the 1981 Amendments. Likewise, they assert that transmission of special programming by the licensee to subscribers is an example of an "offering of a service" under the 1981 Amendments. Although the supporting comments acknowledge that Congress stipulated certain limits on the remunerative activities of public broadcasters, they insist that these restrictions do not apply here. Instead, they see such restrictions only as precluding the broadcast or transmission of advertisements or other actions that would subvert the noncommercial nature of the service offered on the main channel.

10. *Prohibition on Remunerative Subcarrier Use Is Out of Date*—Several parties, including the Corporation for Public Broadcasting, question the continued need for public radio subcarrier restrictions, even if funding were not so pressing an issue. According to this view, such restrictions were an outgrowth of an entirely different time when public stations offered only a narrow range of educational programming. In their view, it was appropriate then to require the subcarrier to be used for the same limited purposes. Now, these parties point out, the service provided by noncommercial stations has greatly expanded as educational broadcasting has evolved into general public broadcasting. They note, however, that there has been no equivalent change in the definition of the types of material that can be offered on a subcarrier. This leads them to believe that the present restriction is out of date and that the permissible uses should be expanded so that public radio stations can provide a wider range of subcarrier service. They believe that such an expansion also would be consistent with the Commission's action which allowed greater fund raising activities and on-air acknowledgments by public stations.¹⁴

11. *Remunerative Subcarrier Use Would Benefit the Public*—The Ohio Educational Broadcasting Network

Commission asserts that allowing remunerative subcarrier use would permit public radio stations to provide an even wider range of services than they currently offer. It notes that many public radio stations have been forced to narrow the content of their broadcast offerings and have found it necessary to follow more rigidly "formatted" program schedules in order to attract an audience that can be persuaded to contribute to the support of preferred programming. This, it states, is the case because presenting a broader range of programming fare makes it harder to attract a loyal audience that can be relied on to provide substantial contributions. Although Ohio Network accepts the fact that this approach may have yielded greater contributions, it asserts that this has meant that public radio stations have not been able to present a broader variety of programs designed to appeal to differing segments of their audiences. It believes that revenues from remunerative subcarrier uses could provide support for main channel operations and could make it possible to use subcarriers to provide service to smaller audience groups with specialized interests. Other parties make similar observations about the possibilities for providing new and varied types of programs. Pacific Lutheran University, for example, mentions specialized course offerings, services for professional groups and programs directed to the legal, health care and law enforcement communities. They and several others mention that the subcarrier could be used to present important agricultural material. However, as all these parties agree, unless the Commission eliminates the present restrictions, public stations will not be able to present this material.

12. The Alaska Public Broadcasting Commission addresses the unique needs of Alaska. In particular, APBC notes that Alaska principally consists of small isolated communities that cannot support commercial stations. Instead, they must rely on service from public stations. In fact, APBC states that public broadcasting provides the principal service to virtually all of these communities, unlike the merely supplemental service provided by public stations in the lower 48 states. Among other things, this means that if these communities are to benefit from the types of service that can be offered on a subcarrier, such as utility load management, it must be done through use of the subcarrier of public stations.

13. *Impact on the Blind of Deregulating Subcarrier Use*—Supporters of remunerative subcarrier

Commission authorize public stations to use their subcarrier capacity for remunerative purposes.

¹⁴ *Second Report and Order* in Docket No. 21136, 86 F.C.C. 2d 141 (1981).

¹² Because the proceeding in BC Docket No. 82-536 had not yet begun when these comments were filed, the parties here focused on a narrower range of possible subcarrier uses than that proposed in the 82-536 proceeding. However, the comments filed there reiterate and expand upon the observations made here about the contribution subcarriers could make to public radio station support.

¹³ In addition, Congress created a Temporary Commission on Alternative Financing for Public Telecommunications to study various sources of funding. Recently, the Temporary Commission reported its findings and recommendations to the Congress. One such recommendation was that the

use assert that the Commission should not refuse to authorize it because of fears about its impact on the blind. They do not believe that the proposed rule change necessarily would lead to displacing radio reading services, even if there is only one subcarrier channel available per station.¹³ Rather, they assert that the likely impact has been greatly exaggerated. They expect a number of radio reading services to continue in operation much as before. Indeed, NPR indicates that a poll of its member stations providing radio reading services revealed that not one intended to reduce, much less eliminate, these services if subcarrier uses were deregulated.¹⁴ NPR also notes its intention to provide incentives to its member stations to continue providing radio reading services both by offering such stations \$500 per month to support these operations and by fashioning its commercial subcarrier ventures with public radio stations in a manner calculated to avoid adverse impact on radio reading services. Even for other reading services that may be affected, parties favoring subcarrier deregulation think time sharing is a feasible answer because many commercial subcarrier users do not need full-time use of their channels. Overall, they contend that the effect of any displacement would be less than the opponents assert because material for the blind can be, and in fact is, provided through means other than use of a subcarrier. For example, they refer to the distribution of recorded material through the Library of Congress and the circulation of audio tapes from various sources.

B. Opposition Comments

14. *Radio Reading Services Would Be Displaced*—The principal concern over the proposed rule is the impact it would have on the radio reading services which use subcarriers.¹⁵ The opposition

¹³ They assert that there would be even less likelihood of displacement if the Commission enlarges the FM baseband and thereby permits an additional subcarrier operation at 82 kHz. In this regard, some of the supporters would open both channels to remunerative use, while others would rely on the second channel to provide radio reading service. Some of the comments support reservation of a channel for radio reading service use, but they express a preference for reserving the channel at 82 kHz rather than the channel at 87 kHz. This point is discussed further below.

¹⁴ Greater Washington Educational Television Association, Alaska Public Broadcasting Commission, the University of Texas at Austin, Ohio Educational Broadcasting Network Commission, KMCR-FM, WVOL-FM and various other noncommercial educational station licenseses reflect a similar commitment to continued radio reading services in their comments in EC Docket No. 82-5-36.

¹⁵ Although a majority of these services use subcarriers on noncommercial stations, an

appreciable number utilize other means of delivery, including commercial FM station subcarriers, public station main channel facilities or even cable television channels.

comments express the belief that if commercial subcarrier users become eligible to employ public radio station subcarriers, such users would be able to outbid radio reading services for subcarrier channel capacity. Under current restrictions, this is not a problem because commercial uses are precluded, thereby protecting the position of non-profit users like radio reading services. The reading service comments stress how dependent radio reading services are on contributions and volunteers and assert they are in no position to pay increased costs for subcarrier use. Moreover, in many cases they are said to lack the funds necessary to provide receivers for all those in need of them. As a result, blind people in many areas have to be put on a waiting list before funds are made available to provide a subcarrier receiver. While the reading services acknowledge that those who can afford to purchase their own receiver are able to avoid this delay, they state that this is of no help to those who lack the resources for such purchases. Further, they assert that this situation could only get worse if the Commission allowed remunerative subcarrier uses.

15. The American Foundation for the Blind ("Foundation") undertook an overall study of radio reading services. It was able to obtain data on 81 of the 113 operations being conducted. Of these 81, 47 were not being charged for use of the subcarrier channel. This group included 19 operations conducted by public radio stations themselves, as well as 28 others which were conducted by other entities. For those that did have a monthly charge, the Foundation found that the charges were as follows:

\$1 to \$249	3
\$250 to \$499	12
\$500 to \$749	14
\$750 to \$1,000	4
Over \$1,000	1

16. By way of contrast, fees for commercial uses are said to average \$2,000-\$3,000 per month, an amount that can rise to \$3,000-\$5,000 per month in a major market. Overall, the commercial rates are said to average 5 times the rate paid by the radio reading services. According to the Foundation, the radio reading services are in no position to accept such an increase. Just as public broadcast funding has been reduced, organizations for the blind are said to be

appreciable number utilize other means of delivery, including commercial FM station subcarriers, public station main channel facilities or even cable television channels.

facing reductions in funding from local, state and federal sources. Private funding is also becoming scarce, apparently because of increasing demands on private contributors. Thus, even without having to face commercial competition, we are told that three radio reading services were forced off the air for lack of funds and others will be unless they are protected from the impact of commercial competition.

17. *Subcarriers Are Needed To Deliver Reading Service Material*—While the reading service comments acknowledge the possibility that other means could be used to deliver some material, they insist that subcarriers continue to be needed for such things as reading job vacancies listed in the newspaper or informing the audience about products available at a sale price in stores that day. Principally, they state that the reading of material in daily newspapers could not be replaced. According to the Chicagoland Radio Reading Service ("CRRS"), the Chicago operation devotes 3 hours and 45 minutes to reading the *Chicago Tribune* and *Sun-Times* each morning.¹⁶

18. According to the opposition comments, radio reading services provide a vital service to the 125,000 persons that are now served. In their view, this service needs to be continued and expanded to serve the almost three million additional individuals in need of reading services.¹⁷ The Association of Radio Reading Services notes that an active effort is underway to extend service to those in need, with operations being planned in 45 additional locations. They and the other opponents fear that this process would be halted if the Commission's proposal is adopted, because organizations such as theirs, which have to depend on contributions, cannot bid effectively against commercial interests.

19. *The Proposal is Contrary to National Policy on the Handicapped*—The opponents assert that the proposal should not be adopted because it is contrary to the thrust of Commission policy which is designed to accommodate the needs of the handicapped wherever possible. In this

¹⁶ This is repeated each evening. In addition, the Chicago reading service reads from the *New York Times*, *Wall Street Journal*, *Chicago Defender* and other publications. All together, the Chicago operation is on the air 24 hours daily Monday through Friday, from 6:00 a.m. Saturday to 2:00 a.m. Sunday and from 6:00 a.m. to 11:00 p.m. Sunday. Because most radio reading services did not provide program schedules, it is not clear whether this is at all typical.

¹⁷ In addition to the blind, other groups of reading impaired persons are said to derive important benefits from radio reading services.

connection, CRIS makes reference to closed captioning to serve the hearing impaired, the inquiry into telecommunications services for the deaf, the expectation that news bulletins concerning public safety will be displayed on television screens and other actions designed to make communications services available to all. These are seen as reflecting a national policy of giving full consideration to the needs of the handicapped, concerns which are said to have been reflected in the 1981 Amendments Act. In particular, the Commission is referred to language in the conference Committee Report on the 1981 Amendments as follows:

The Conferees, however, take note of the concerns that certain responsibilities public broadcasting does have, such as to the blind, cannot, in every instance, be met through the delivery of public television and radio stations alone, and hope that the Corporation (CPB) will give continuing attention to this issue.

In addition, the Foundation quotes from the House Report language which indicates that " * * * the particular needs of all persons, be they minorities, women, handicapped or otherwise must be served." The Foundation acknowledges that this language occurs in connection with a discussion of CPB. Nonetheless, it insists that its use reflects an overall policy that transcends its apparently exclusive application to CPB. According to the opponents, Congress intended for public broadcasting to continue to play an important role in serving the needs of the print handicapped. However, in their view the proposed change would lead to a decrease in the availability of subcarriers for radio reading services without providing a substitute method for delivering these services.

20. The Association of Radio Reading Services ("ARRS") argues that it would be improper to deregulate subcarrier use as proposed without taking measures to protect the blind. According to ARRS, the Commission is required to ensure that its public station licensees observe their special statutory duty to accommodate the needs of the handicapped wherever possible. This duty, ARRS contends, arises essentially from Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as interpreted by the decision in *Gottfried v. FCC*, 65 F. 2d 297 (D.C. Cir. 1981)²⁰

²⁰ The Supreme Court's subsequent decision, however, reversing the holding in *Gottfried* undermines ARRS' contention in this regard. See *Community Television of Southern California v. Gottfried*, 51 U.S.L.W. 4134 (decided February 22, 1983).

21. *The 1981 Amendments Preclude Adoption of the Proposal*—The opponents dispute the view that Section 399B of the Act, which authorized remunerative activities by public stations, provided grounds on which the Commission could base the action proposed. According to the opponents, when Congress allowed a public broadcast station "to engage in the offering of services, facilities, or products in exchange for remuneration," it also specified that this activity was not to "interfere with the provision of public telecommunications services by such station." In their view, the term "public telecommunications services" means the entire range of noncommercial educational and cultural radio and television programs and related noncommercial instructional or informational material provided by such stations. They insist that Congress intended to preclude activities that undermined these purposes. They assert that there is no indication that Congress was concerned only with protecting the program offerings on the main channel. Rather, the opponents believe that Congressional concern extended to the other public telecommunications services being offered by these stations, including radio reading services. As they see it, if the intent were only to protect the main channel, the statute would not have referred to the use of "certain" facilities rather than all facilities. Thus, they do not read the 1981 Amendments to require or even suggest that there should be a curtailment of existing services, such as those now provided to the blind on subcarriers. In fact, they point to a rule adopted by NTIA to define when remunerative uses "interfere" with providing public telecommunications services. Under this rule, stations are allowed to use their facilities for remunerative purposes only when they are not needed for public telecommunications purposes.

C. Comments Relating to the Availability of Two Subchannels

22. Various parties address, both here and in BC Docket No. 82-536, the issue of expanding the FM baseband in order to make available an additional subcarrier channel. Nearly all of these parties support such expansion, but they differ considerably on how the two subchannels should be used—particularly with respect to whether one of the two subchannels should be reserved for public telecommunications services as a means of ensuring these services' continued viability.

23. NPR supports expansion of the FM baseband to 99 kHz. It contends this would make operation of a second

subcarrier service feasible²¹ and would avert any necessary conflict between commercial and noncommercial users because there would be a channel for each to use. NPR opposes, however, explicit reservation of a channel for specific uses. The Association of California Public Radio Stations ("ACPRS") argues that the Communications Act precludes the Commission from reserving even a portion of a station's capacity for a specific use and that, in any event, such reservation would represent poor public policy since it would substitute the government's value judgments for more efficient marketplace forces in determining subcarrier uses. Other public broadcast licensees also oppose reservation of one of two subcarrier channels for public telecommunication services, pointing out that such reservation would raise difficulties in defining these services and would result in inefficient use of the spectrum.

24. The Corporation for Public Broadcasting asserts, on the other hand, that reservation is necessary to assure that commercial subcarrier ventures do not interfere with the continued provision of public telecommunications services. CPB would, however, permit remunerative uses of the reserved channel on a temporary waiver basis if doing so is shown not to interfere with any existing or anticipated public telecommunications uses. Moreover, some public broadcasters did support setting aside a new 92 kHz channel for noncommercial educational use so that continued operation of radio reading services could be assured.

25. The West Virginia Educational Broadcasting Authority ("WVEBA") does not believe it is necessary to reserve a subcarrier channel for radio reading services use. WVEBA suggests instead that the Commission authorize a three year trial period during which unrestricted remunerative subcarrier use would be permitted. The Commission then would evaluate public broadcasters' performance in this area to determine whether further action was warranted to ensure the continued availability of radio reading services.

26. Although reading services support the proposed creation of a new 92 kHz channel, they believe that the existing 67

²¹ These parties focus on operation at 92 kHz. Station WETA in Washington, D.C. conducted tests which lead it to conclude that such an expansion is feasible and that a second subchannel could be operated at 92 kHz without causing deleterious effects. However, as the *Report and Order* in BC Docket No. 82-536 points out, the opportunities for additional use of a station's subcarrier capacity are not limited to 92 kHz.

kHz channel should be reserved for radio reading services and other present users. Their preference for this channel stems from the fact that all of their investment is in equipment designed for use at 67 kHz. They assert that moving to 92 kHz would require substantial expenditures which they are in no position to undertake. Therefore, they do not believe that their needs would be fully addressed, even if access to a new 92 kHz channel were assured.²³

III. Discussion

27. The comments in this proceeding and in BC Docket No. 82-536 have helped to focus the issues which require resolution in deciding whether it is in the public interest to authorize remunerative subcarrier use by public radio stations. Essentially, the Commission must determine whether such uses could make a valuable contribution to public stations' support, whether such uses are consistent with applicable statutory provisions, and how remunerative subcarrier activities can be conducted in accord with these stations' continued provision of radio reading services.

28. Before turning to these issues, we need to consider the implications of the actions taken today in BC Docket No. 82-536 for the issues in this proceeding. As a result of our decision in BC Docket No. 82-536 to broaden the FM baseband, public radio stations are no longer limited to a single subcarrier channel. Instead, each station will be able to conduct two subcarrier operations. Because of the sequence of events, the comments in this proceeding that addressed the consequences of having only one subcarrier channel available are no longer pertinent now that a second subcarrier channel has been authorized. However, comments remain here that anticipated our action in BC Docket No. 82-536 and dealt with its implications. Basically, these comments raise two issues. First, they express the preference of the radio reading services

to continue to operate on 67 kHz even though a second subcarrier channel is made available. Most of this concern focuses on the cost of changing to a new channel.²⁴ NPR's substantial offer of assistance in offsetting such changeover costs, however, should meet this concern.²⁵ Thus, we see no reason to restrict licensee discretion in determining which subcarrier channel should be used in providing radio reading services. Second, they pose the fundamental question of how best to harmonize public stations' response to demands for both remunerative and radio reading service uses of their subcarrier channels. This question, of course, remains relevant whether one or two subcarrier channels are authorized and we will consider it below.

29. *Public Radio's Need for Expanded Subcarrier Authority.* Over the years public broadcasting has obtained its support from three major sources: governmental funding, underwriting and individual contributions. As the record amply demonstrates, new sources of funds need to be developed to replace the funds being cut from federal sources. In fact, the pressure to develop these new sources of funds is heightened because state and local funds are also being cut. Obviously, remunerative use of the subcarrier is not the only outlet for obtaining these funds. Many other steps can be and in fact are being taken, but subcarriers could provide an important boost to this effort.

30. In a major market, for example, traditional remunerative use of a subcarrier could yield as much as \$5,000 per month or \$60,000 per year. In a smaller market, the revenue potential would be lower, but often the budget is lower as well. Some of the new subcarrier uses authorized in BC Docket No. 82-536 have considerable revenue potential, perhaps greater than traditional uses. Either way, it is clear that remunerative use of the subcarrier can provide substantial support to the

station and can be expected to contribute to improving and extending the station's service.

31. The comments clearly reflect a substantial demand for remunerative use of these subcarriers. This demand is not merely theoretical; public radio licensees already have been approached by prospective users.²⁶ In addition, National Public Radio is engaged in extensive planning for nationwide use of these channels for information delivery. Further, corporations already involved in subcarrier operations on commercial stations have expressed interest in using the capacity of public radio stations. Moreover, in some parts of the country (especially in Alaska), public radio stations are the only local stations that could be used to respond to the demand for subcarrier service. Thus, unless the current restrictions are deleted, there would be no way to provide the benefits that can be offered by using the subcarrier, including utility load management.

32. *Statutory Consistency and Policy Concerns.* Having concluded that there is a demand for remunerative subcarrier use that could make a valuable contribution to public radio service, we must consider whether such use is consistent with applicable statutory requirements and advisable as a matter of public policy. In this regard, there is considerable disagreement among the parties concerning the meaning of the 1981 Amendments. One side focuses on the language authorizing the use of facilities and the offering of services for remuneration. To them, this language means that the new provisions allow—perhaps even require—the Commission to authorize remunerative subcarrier uses. The other side emphasizes the statutory limitation that these activities must not interfere with the provision of public telecommunications service by the station. They stress Congressional expressions of support for service to the handicapped.

33. It is clear that the 1981 Amendments, and Section 399B in particular, are intended to authorize a range of remunerative endeavors in which public broadcasters could engage as a means of generating the additional income needed to offset declining federal support.²⁷ In enacting these

²³ In this regard, it is important to point out that the Commission received submissions from National Public Radio on the use of the 82 kHz channel by radio reading services. In these submissions, NPR agreed to reimburse radio reading services for the cost of changing from their present 67 kHz channel of operation to the new channel. NPR offered \$3 million, if necessary, for this purpose, although it doubted that the full amount would be needed. As noted earlier, NPR also has offered \$500 monthly to support radio reading services on eligible stations. CPB argues that the NPR assurances of support for the continuation of radio reading services do not satisfy the requirements of Section 399B. According to CPB, the NPR offer applies only in localities where an NPR-sponsored commercial subcarrier venture is conducted. In addition, CPB does not believe that the \$500 that NPR would pay monthly to a station is sufficient to ensure the continuation of radio reading services.

²⁴ Reference was also made to technical distinctions between subcarrier channels. We recognize that the frequency of a subcarrier is one of the factors that determines the utility of a subcarrier channel. However, given the many choices of modulation and other system characteristics that may be employed in providing subcarrier service, we do not believe that this particular factor is of decisional significance in this proceeding.

²⁵ We note that NPR's offer would reach 90% of existing radio reading service subscribers and could encompass all such subscribers. In any event, if a public radio station, in pursuing its commercial subcarrier goals, elects to change the subcarrier channel available to existing radio reading services, it would be ultimately responsible for the costs of such relocation, including the costs of modifying the subcarrier receivers used by the handicapped listeners of such radio reading services.

²⁶ These early expressions are particularly striking because they came before the Commission proposed expanding the range of possible SCA uses.

²⁷ For example, the House Committee on Energy and Commerce noted in its Report on the 1981 Amendments that "public stations must be free to generate substantial sums of additional revenue from the pursuit of commercial activities if the nation's public broadcasting system is to survive

amendments, it is also clear that Congress intended that such endeavors should not result in a diminution of public telecommunications services provided by noncommercial broadcasters.³⁷ However, neither the express language nor the legislative history of Section 399B specifically addresses remunerative uses of ancillary capacity such as subcarriers. Therefore, the determination as to whether such uses are or should be permitted and, if so, what constraints on such uses might be appropriate, would appear to be a matter committed to our discretion. Nevertheless, in making this determination, we believe that the provisions of Section 399B offer useful, if not dispositive, guidance.

34. Given the broad nature of the language in Section 399B permitting the offering of "services, facilities, or products" on a for-profit basis, the plain intent of Congress to encourage public broadcasters' ability to generate self-supporting income and the clear capacity of commercial subcarrier use to help meet the demonstrated need of public radio stations for such income, we are convinced that, generically, remunerative use of subcarriers is not only consistent with the requirements and authorizations of the 1981 Amendments, but advisable as a matter of policy as well. Accordingly, we shall authorize public radio stations to engage in the same range of remunerative activities on their subcarriers as do commercial stations.³⁸ They shall be subject, as well, to the same technical

standards as commercial stations.³⁹

35. However, we also conclude that public radio stations subject to Section 399B that use subcarriers for remunerative activities must ensure that neither existing nor potential radio reading services for the blind are diminished in quantity or quality by the pursuit of commercial subcarrier undertakings. This public interest duty derives from Section 309 of the Communications Act, as instructed by the specific goals for public broadcasting stations set forth in Section 399B. Thus, we believe that a station utilizing one of its subcarriers for commercial purposes would be obliged to accommodate radio reading services on its other subchannel or to ensure the availability of alternative subchannel capacity for such services. We are confident that public broadcasters are cognizant of the importance of these services⁴⁰ and that they are well able to determine, and will determine, appropriate means by which to guarantee the compatibility of their commercial and noncommercial ventures. We shall, therefore, leave to each licensee's discretion the decision as to how best to accommodate such uses. The availability, of course, of a second subcarrier channel, afforded by our action today in BC Docket No. 82-536, enhances the ability of licensees to make this accommodation. Among the alternatives which licensees might consider are, for example: (1) Reservation of one of the two available subcarrier channels for radio reading services; (2) a demand-based priority or preference system for such uses on one of the available channels⁴¹; or, (3) a

guarantor approach, where the licensee undertakes to make available a suitable channel for such services on another market station. We stress that these approaches are not intended to be all inclusive. We are firmly convinced that this flexible approach will permit public broadcasters to maximize the benefits of remunerative subcarrier uses while ensuring that radio reading services will continue to be made available.

36. Licensees are not required to provide a subcarrier service of any kind nor must they bear the fixed or operating costs of a radio reading service should they provide one.⁴² We emphasize the first point to make it clear that stations not using their subcarrier capacity for any purpose cannot be forced to do so. The new rules address only the situation where the licensee decides it does want to use this capacity. Once it has elected to use its subcarriers, the new rules would not permit the licensee to pursue its remunerative aims to the detriment of radio reading services. We believe that public radio licensees can be relied upon to meet this obligation. Thus, we do not see the desire to obtain revenues from subcarrier use as reflecting on licensees' commitment to public

noncommercial stations' subcarrier capacity while avoiding untoward effects on radio reading services. We agree that this procedure might permit noncommercial stations to extract additional commercial value from reserved subchannels. We do not believe, however, that such a procedure is advisable. To permit, in effect, both subchannels to be obligated for commercial use on a non-preemptible basis for substantial periods of time would not protect adequately, in our view, the public interest in ensuring the provision of radio reading services to the widest possible audience in need of such services. Our decision herein affords public radio stations substantial commercial possibilities. One full-service subcarrier channel will be available for unrestricted commercial use and preemptible commercial service can be provided on the remaining subchannel. Moreover, we do not intend that preemption of an existing commercial use must be immediate. Rather, we would consider it reasonable for a station, faced with a proper request for subcarrier capacity by radio reading services, to take up to one year to arrange termination of ongoing services and to provide the requested capacity. This should improve the feasibility of preemptible subchannels by removing the threat of unduly abrupt displacement of commercial users of these subchannels. Further, of course, dedicated commercial use of both subcarrier channels would be permitted provided the station involved can ensure the availability of subchannel capacity for radio reading services by some other means. We believe that these arrangements best balance the need of public radio stations for access to income-generating activities with our concern for the continued provision and growth of radio reading services.

³⁷ Conversely, public radio stations providing radio reading services would be expected to do so on a not-for-profit basis. To do otherwise would be inconsistent with their duty to avoid adverse effects on radio reading services as a consequence of their commercial use of subcarrier capacity.

³⁷ Section 399B(c) specifically provides that "[n]o such (remunerative) offering by a public broadcast station shall not interfere with the provision of public telecommunications services by such station." In this regard, the Committee Report notes that "the intent of this provision is that the use of facilities for other than public telecommunications services should not impair the quantity or quality of the services that would be expected of public broadcast stations had this modification of law not occurred."

³⁸ We are not persuaded that remunerative subcarrier use is precluded by the cited language in the Conference Committee Report regarding service to the blind. The Report does no more than express a hope that the Corporation for Public Broadcasting will give attention to the provision of such service by means other than public radio and television stations. Likewise, the language regarding serving the handicapped, quoted from the House Report, refers to CPB's obligations. Here, too, the language does no more than urge consideration of service to the handicapped by CPB. We do not believe that the language in the Conference Committee Report or the House Report can reasonably be read to refer to subcarrier obligations of public stations. Similarly, the apparently broader interpretation of the work "interfere" taken from the regulations of the National Telecommunications and Information Administration is not relevant here. It deals with whether facilities obtained under a federal grant can be diverted to commercial purposes to the detriment of a station's public broadcasting

obligations. No such factors are involved in our decision in this proceeding.

³⁹ In this connection, §§ 73.584 and 73.595 of the Rules are being deleted in our action today in BC Docket No. 82-536. Public stations will now be governed by Sections 73.293 through 73.295.

⁴⁰ In this regard, we note specifically the comments of NPR and others which reflect a particular sensitivity to the need for, and the apparent commitment of, public stations to continue to provide radio reading services.

⁴¹ The preemptible nature of any service which might be rendered on a subchannel subject to a demand-based preference for radio reading services clearly reduces the commercial value of that subchannel because of the uncertainty which it introduces. CPB recognized this fact in connection with its reservation proposal and suggested that this uncertainty could be cured by a Commission-administered waiver process. Under this approach, reservation could be waived for the remaining period of a station's license term upon a showing that no existing or known potential radio reading services would be disadvantaged thereby. Once the initial waiver lapsed, it could be renewed for another fixed period upon the licensee making a similar showing. CPB considered this temporary, renewable waiver procedure to be the best method of maximizing the commercial utility of

broadcasting's traditional pursuits. Rather, it simply reflects the vital need to provide support for public stations. We believe that the method chosen can respond to this need while assuring that stations will continue to provide radio reading services. In so doing we have responded to both of the underlying concerns of Section 399B and have done so in a way that balances the obligations undertaken in exchange for the benefits received.

37. Although spectrum efficiency was given little attention in the comments, the current restrictions have an important impact in this area. Currently, few stations use their subcarrier capacity, so this sizable potential for reaching specialized radio audiences and for other non-broadcast purposes is left virtually unused. The principal reasons for this are the limits on the kinds of material that can be offered, combined with the prohibition on operating on a profit making basis. Our action herein removing these restrictions should encourage stations to explore many new uses and thereby more effectively utilize their spectrum resources.

38. Accordingly, it is ordered that § 73.593 of the Commission's Rules is amended effective July 5, 1983, as set forth in the attached appendix.

39. Authority for this action is contained in Sections 4(1), 303 and 399B of the Communications Act of 1934, as amended.

40. Regulatory Flexibility Analysis

I. Need For and Purpose of the Rule

The Commission has concluded that the present limitations of § 73.593 on the use of a noncommercial educational FM station's subcarrier can be removed. The relaxation is based on the conclusion that these stations need to use these subcarrier channels for remunerative purposes barred by the present rule.

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. Issues Raised

1. Parties representing public broadcast stations and organizations favored the proposal as a way of providing more of their own financial support.

2. Parties representing radio reading services for the blind opposed the proposal, fearing that such services would be displaced by commercial parties able to outbid them.

3. Several parties favored expansion of the FM baseband to accommodate an

additional subcarrier channel, with radio reading services supporting the reservation of one channel for noncommercial educational uses including radio reading services. This issue is being resolved in another proceeding.

B. Assessment

The Commission concluded that the current restrictions were wasteful of spectrum space and also interfered with the need of public radio stations to generate more of their own financial support.

C. Changes Made as a Result

The Commission did not find the arguments against relieving the restrictions on subcarrier use to be persuasive. It did not agree that radio reading services necessarily would be displaced or that there should be a reservation of an subcarrier channel for such use if the FM baseband is expanded. Other means are available to provide services to the blind, which in any event would be allowed to continue to use subcarriers as they now do.

III. Significant Alternatives Considered and Rejected

Other than the expansion of the baseband, and issue resolved in BC Docket No. 82-538, no significant alternatives were raised. Our reasons for acting on those issues properly before the Commission in this proceeding are described above.

41. It is further ordered, that this proceeding is terminated.

42. For further information concerning this proceeding, contact Jonathan David, Mass Media Bureau (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1006, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricacico,

Secretary.

Appendix

PART 73—[AMENDED]

1. Section 73.593 is revised to read as follows:

§ 73.593 Subsidiary communications services.

The licensee of a noncommercial educational FM station is not required to use its subcarrier capacity, but if it chooses to do so, it is governed by §§ 73.293 through 73.295 of the Commission's Rules regarding the types of permissible subcarrier uses and the manner in which subcarrier operations shall be conducted; *Provided*, however, that remunerative use of a station's subcarrier capacity shall not be

detrimental to the provision of existing or potential radio reading services for the blind or otherwise inconsistent with its public broadcasting responsibilities.

Appendix B

Comments

Alaska Public Broadcasting Commission
American Council of the Blind
American Foundation for the Blind
Arkansas Radio Reading Service for the Blind, Inc.
Association of Radio Reading Services
Bonneville International Corporation
Robert E. Brooking
Capital Area Vocational Center
Central Piedmont Community College Radio Reading Service
Chicagoland Radio Information Services, Inc.
Christian Broadcasting Academy, Inc.
Cleveland Radio Reading Service Corporation for Public Broadcasting
Erie County Branch, Pennsylvania Association for the Blind
Fort Wayne Bible College
General Broadcasting Company, Inc.
Gopher State Blind Associates
Greater Washington Educational Telecommunications Association, Inc.
Illinois Farm Bureau
Joint Comments (KQED, Inc., et al.)
Michigan State University (WKAR)
Minnesota Radio Talking Book Network
MUZAK, Division of Teleprompter Corp.
National Association of Public Television Stations
National Federation of Community Broadcasters
National Public Radio
National Radio Broadcasters Association
North Texas Radio Reading Service
Ohio Educational Broadcasting Network Commission
Pacific Lutheran University
Public Radio, Inc.
Radio Information Center for the Blind
Rocky Mountain Public Radio
Radio Reading Service of the Lackawanna Branch, Pennsylvania Association for the Blind
St. Cloud State University
Union College
United Blind of Minnesota, Inc.
University of Kansas Audio-Reader Network
University of Texas at Austin
Vedette Energy Research, Inc.
WBHM's Radio Reading Service, Birmingham, Alabama
Wisconsin Radio Reading Service
York County Blind Center

Reply Comments

American Foundation for the Blind
Association of Radio Reading Services Corporation for Public Broadcasting
Minnesota Talking Book Network
MUZAK, Division of Teleprompter Corp.
National Public Radio

Appendix C

The following summarizes comments and reply comments filed in BC Docket No. 82-538 which address public telecommunications issues relevant to and resolved in this proceeding.

1. Public Telecommunication Services—An issue that resulted in substantial comment concerned the impact that authorizing non-broadcast services on subcarriers would have on current users, specifically, the radio reading services for the visually impaired. Several parties representing radio reading services filed comments requesting that, if the new services were permitted, some protection should be accorded existing users.²⁴ The Association of Radio Reading Services (ARRS) is concerned that adoption of the proposed rules without making explicit changes to protect and foster radio reading services would have an adverse impact upon the blind and persons similarly afflicted. To avoid this situation, which ARRS argues would be illegal for the Commission to allow, it offers several suggestions. It first recommends adoption of the proposed rules insofar as they would allow the use of a second subcarrier by noncommercial FM stations. One of the two subcarriers of these stations could then be reserved for nonprofit educational use in a manner not inconsistent with the purpose and operation of the station's main channel. ARRS further asks that the subcarrier at 67 kHz be reserved for their service since noncommercial programming is now being offered on that subchannel. Thus, it states, adverse financial and disruptive operational effects on organizations such as itself would be minimized. ARRS asserts that a volunteer nonprofit organization, such as itself, cannot outbid commercial users for subcarrier frequencies. It believes, therefore, that such competition would result in a loss of service to the blind and other handicapped people. According to ARRS, the Commission and all noncommercial public broadcasting licensees have a statutory duty to accommodate the needs of the handicapped whenever possible and to take affirmative action when necessary to ensure that these needs are met. It states that these legal obligations stem from Sections 307 and 309 of the Communications Act (47 U.S.C. 307, 309); Section 399B of the Communications Act (47 U.S.C. 399B); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as interpreted by the Court of Appeals in *Gouffred v. F.C.C.*, 65 F.2d 297 (1981). ARRS claims that the only way the Commission can legally accomplish its goal of allowing public broadcasters to use their subcarrier frequencies for remunerative purposes is to expand the frequency band of subcarriers to

69 kHz and reserve the existing 67 kHz subcarrier for noncommercial use. Several of the radio reading services endorsed ARRS' comments.

2. On the other side of the issue, public broadcast licensees generally favor the proposals for non-broadcast uses of subcarriers. The Association of California Public Radio Stations (ACPRS) states its belief that authority to use subcarriers for non-broadcast purposes will increase supplier competition and consumer choice in information and entertainment fields other than broadcasting. The ACPRS notes that there has been concern expressed in some quarters that operation of a second subcarrier by noncommercial stations should be conditioned on the station's using at least one of its subcarriers for a specific purpose, such as a radio reading service or general noncommercial, educational broadcast activities. According to the ACPRS, these concerns are misplaced for several reasons. First, the ACPRS interprets the Communications Act to preclude the Commission from requiring broadcast stations to use even a portion of their channel capacity for a specific use. This same issue is raised by San Diego State University (KPBS) in their comments. Second, ACPRS argues that such a reservation of a subcarrier for a particular purpose would be bad policy. The reservation of a subcarrier for a particular purpose would impose the government's own value judgments upon the natural marketplace process whereby consumer demands and supplier capacities adjust to each other to provide optimal satisfaction. ACPRS states that the use of subcarriers by noncommercial, educational broadcasters would in no way detract from or even affect the use of the main channel for its prescribed purpose.

3. Greater Washington Educational Television Association (GWETA), Alaska Public Broadcasting Commission (APBC), the University of Texas at Austin (U of T), Ohio Educational Broadcasting Network Commission (OEBNC), KMCR-FM, WUOL-FM, the staff of KMCUW (licensed to Wichita State University) and Noncommercial Educational Licensees²⁵ reject the proposal made by radio reading services to reserve one subcarrier (specifically at 67 kHz) for noncommercial services. GWETA urges that each licensee be given full discretion as to the nature of services they provide. These parties believe that current financial exigencies require that licensees be accorded the fullest freedom to use all available revenue producing devices that would not interfere with the public broadcast services they were created to provide. The *raison d'être* of educational stations is public service. Therefore, these parties argue that great internal motivation will continue to exist to devote at least some subcarrier capacity to this type of operation. Noncommercial Educational Licensees and the KMCUW staff indicate they are now facing a financial crisis and submit that their good

intentions, as reflected in providing radio reading services, will be worthless if they are forced to leave the air due to lack of resources.

4. Compromise positions on this issue were offered by the West Virginia Educational Broadcasting Authority (WVEBA) and the Corporation for Public Broadcasting. The WVEBA indicates that it remains unalterably committed to providing radio reading services. Rather than "casting the proposal in cement," as a reserved subcarrier would do, WVEBA argues that a wiser course of action would be to provide for a trial period to ascertain whether further Commission action should be taken to assure that special services to the handicapped would continue to be provided. It proposes a three-year trial period to afford the Commission an opportunity to evaluate the operation of two subchannels by public broadcast licensees. During this period, licensees could continue to file a simplified subcarrier application so that the Commission could determine how many stations were operating subcarriers and the purposes for which they were being used.

5. The WVEBA also believes that public telecommunication services using the 67 kHz subcarrier should be continued. However, at times when this subcarrier is not used for public telecommunications services, licensees should be permitted to engage in revenue-generating activities.

6. The Corporation for Public Broadcasting (CPB) believes that certain modifications are necessary to ensure that commercial services on noncommercial stations do not interfere with the provision of public telecommunications services as stated in Section 399B of the Communications Act. CPB recommends that the Commission reserve one subcarrier channel for noncommercial purposes but leave any additional capacity created free of regulatory restrictions. With respect to the reserved channel CPB states that licensees should be permitted to apply to the Commission for permission to conduct commercial operations on that channel, if such operations would not interfere with their provision of public telecommunications services. In situations where commercial use of the reserved subchannel would not interfere with public telecommunications use, CPB believes that a temporary, renewable waiver of the reservation would be appropriate. These renewable waivers would be granted upon a showing that the proposed remunerative use would not interfere with existing or known potential noncommercial use. This reservation policy is preferable to what CPB calls the alternative—allowing licensees to offer commercial subcarriers so long as they are preemptible by public telecommunications users. According to CPB, this alternative would render commercial services vulnerable to eviction and would fail to provide adequate stability for long-term business relationships.

7. National Public Radio (NPR) asserts that too much subcarrier capacity exists for radio reading services and other public telecommunications services to be crowded out by the introduction of new services and that, in fact, the real danger stems from the

²⁴ These parties include: Association of Radio Reading Services, Utah Radio Reading Services, University of Kansas Audio Reader Network, Corporation for Public Broadcasting, Oklahoma Radio Reading Services, New Jersey Library for the Blind and Handicapped, The Washington Ear, Georgia Radio Reading Service, Inc., El Paso Lighthouse for the Blind, Radio Talking Books, Inc., Minnesota Radio Talking Book Network, Sun Sounds Radio Reading Service, Office of Handicapped Concerns, Radio Reading Services of Greater Cincinnati, Inc., Minnesota Public Radio, Broadcast Services for the Blind, Inc., Read Out, West Tennessee Talking Library, American Foundation for the Blind, York County Blind Center, WBBM Radio Reading Services, Kentuckiana Radio Information Service, Golden Triangle Radio Information Center, and Houston Taping for the Blind.

²⁵ KQED, Inc., The Ohio State University, State of Wisconsin Educational Communications Board, The Board of Trustees of the University of Illinois and the University of Maine.

financial crisis affecting public radio stations. NPR states that it and its member stations have been and continue to be strong supporters of subcarrier programming for print handicapped persons. It has surveyed its member stations on the subject and NPR reports that not one station presently carrying print handicapped services on its subcarrier said that development and implementation of new services would interfere with provision of these specialized services. Supplemental comments filed by NPR also reported a new policy to provide significant incentives to NPR affiliate stations to continue to offer public telecommunications services, and to introduce new services in the future.²⁸ This policy was adopted by NPR's Board of Directors. Essentially, this policy provides for NPR to pay member stations continuing to provide a radio reading service (or other qualified public telecommunications services) \$500 per month in order to encourage the retention of these services. Additionally, NPR will formulate its venture agreements with all public radio stations in a manner designed to discourage the termination of a radio reading service solely in order to provide new, commercial service. NPR states that it believes this policy would provide a degree of protection to public telecommunications services sufficient to warrant adoption of the Commission's subcarrier proposals.

8. The CPB supplemental comments responding to NPR's proposals outline its objections. CPB argues that the NPR proposal does not satisfy the requirements of Section 399B of the Communications Act. It also argues that only a few stations will be affected by NPR's economic incentives. According to CPB, the offer applies only in communities in which NPR engages in its commercial subcarrier ventures. Additionally, CPB argues that \$500 is not an adequate incentive to ensure subcarrier availability to public telecommunications services. To ensure access of public telecommunication services to a subcarrier, CPB reaffirms its proposals for reserving a subcarrier for public telecommunications services while permitting the possibility of income generating activities.

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²⁸ Late filed comments were submitted by NPR, CPB, ARRS, AFB and The Washington Ent. All these comments relate to the radio reading service issue and provide useful information on the subject. Accordingly, we have fully considered them in reaching our decision in this proceeding.