

commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at <https://www.regulations.gov>.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

#### A. Notice of Filing—New Tolerance Exemptions for PIPs

*PP 3F9096.* EPA–HQ–OPP–2024–0293. Bayer CropScience LP, 800 North Lindbergh Boulevard, Saint Louis, MO 63198, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 174 for residues of the plant-incorporated protectants (PIPs) *Bacillus thuringiensis* Cry1A.2 and Cry1B.2 proteins in or on soybean. The petitioner believes no analytical method is needed because this petition is an exemption from the requirement of a tolerance without numerical limitation, thus an analytical detection method should not be required. *Contact:* BPPD.

#### B. New Tolerances for Non-Inerts

*PP 4E9129.* EPA–HQ–OPP–2024–0220. United States Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250–1032, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, cypermethrin, in or on durian at 1.0 parts per million (ppm). The Gas Chromatography with Electron Capture Detection (GC/ECD) is used to measure and evaluate the cypermethrin residues. *Contact:* RD.

**Authority:** 21 U.S.C. 346a.

Dated: July 25, 2024.

**Kimberly Smith,**

*Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[WT Docket No. 24–186; FCC 24–77; FR ID 234719]

#### Promoting Consumer Choice and Wireless Competition Through Handset Unlocking Requirements and Policies

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) explores the use of handset unlocking policies as a means to improve consumer choice and flexibility and to enhance competition across the mobile wireless marketplace as part of the Commission’s ongoing efforts to carry out its statutory obligations to ensure a competitive marketplace for mobile wireless services. Specifically, the Commission proposes to require all mobile wireless service providers to unlock handsets 60 days after a consumer’s handset is activated with the provider, unless within the 60-day period the service provider determines the handset was purchased through fraud.

**DATES:** Interested parties may file comments on or before September 9, 2024, and reply comments on or before September 23, 2024. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, the Office of Management and Budget, and other interested parties on or before October 7, 2024. Written comments on the Initial Regulatory Flexibility Analysis (IRFA) must have a separate and distinct heading designating them as responses to the IRFA and must be submitted by the public on or before September 9, 2024.

**ADDRESSES:** Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s

Electronic Comment Filing System (ECFS). You may submit comments, identified by WT Docket No. 24–186, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

- Hand-delivered or messenger-delivered paper filings for the Commission’s Secretary are accepted between 8 a.m. and 4 p.m. by the FCC’s mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202–418–0530.

**FOR FURTHER INFORMATION CONTACT:** Eli Johnson, Attorney Advisor, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at 202–418–1395 or [Eli.Johnson@fcc.gov](mailto:Eli.Johnson@fcc.gov) or Jennifer Salhus, Attorney Advisor, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, at 202–418–2823 or [Jennifer.Salhus@fcc.gov](mailto:Jennifer.Salhus@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Notice of Proposed Rulemaking (NPRM), in WT Docket No. 24–186, FCC 24–77, adopted on July 18, 2024, and released on July 19, 2024. The full text of this document is available for public inspection and can be downloaded at <https://docs.fcc.gov/public/attachments/FCC-24-77A1.pdf>.

*Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule

will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of the rule and policy changes contained in the Notice of Proposed Rulemaking. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the Notice of Proposed Rulemaking indicated in the **DATES** section of this document and must have a separate and distinct heading designating them as responses to the IRFA and must be filed in WT Docket No. 24–186.

**Paperwork Reduction Act.** This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

**Ex Parte Rules.** This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents

shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b), 47 CFR 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

**Providing Accountability Through Transparency Act.** Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of the Notice of Proposed Rulemaking will be available on <https://www.fcc.gov/proposed-rulemakings>.

## Synopsis

### I. Introduction

1. With the NPRM, the Commission explores the use of handset unlocking policies as a means to improve consumer choice and flexibility and to enhance competition across the mobile wireless marketplace as part of the Commission’s ongoing efforts to carry out its statutory obligations to ensure a competitive marketplace for mobile wireless services. Handset unlocking, which allows consumers to take their existing handset with them when they switch from one mobile wireless service provider to another, can be an important tool in facilitating competition and reducing barriers for consumers to switch between wireless providers. Over the past two decades, the Commission has adopted handset unlocking requirements for particular providers in specific circumstances, upon finding that doing so was justified in each of those instances. In the NPRM, the Commission tentatively concludes that adopting a broadly applicable set of handset unlocking requirements for all mobile wireless service providers would serve the public interest, and we seek comment on which requirements would best facilitate competition and consumer choice. Specifically, the Commission proposes to require all mobile wireless service providers to unlock handsets 60 days after a consumer’s handset is activated with the provider, unless within the 60-day period the service provider determines the handset was purchased through fraud.

### II. Background

2. Unlocking a handset allows consumers to take their existing handset with them when they switch from one mobile wireless service provider to another, as long as the consumer’s handset is compatible with the new provider’s wireless network. In some instances, handsets are sold with discounts in exchange for a required service plan commitment, often months or years in length, or pursuant to a handset financing plan. Locking software generally is intended to ensure that handsets will remain active on the network of the provider that sold the handset (with a discount or with a handset installment plan) for a certain period of time or amount of usage. A locked handset cannot be used on a competing service provider’s compatible network without the handset first being unlocked. The unlocking process varies by handset and by service provider. A service provider may automatically unlock a handset after certain conditions are met, send instructions to customers on how to unlock a handset upon request, or complete the unlocking process in-store. The Commission has found that “[m]obile device unlocking facilitates consumer choice among mobile broadband providers by freeing consumers from having to replace their handset to use another network, thereby reducing switching costs.”

3. The wireless industry has established six general handset unlocking commitments as part of the CTIA Consumer Code for Wireless Service (CTIA Unlocking Commitments). Wireless service providers, such as AT&T, T-Mobile, and Verizon, who have voluntarily agreed to abide by these commitments will unlock handsets in a timely manner when they receive a request from a consumer to unlock a handset once certain conditions are met. These commitments assist consumers by enhancing transparency and disclosure of service provider locking policies. These commitments cover: (1) disclosure; (2) postpaid unlocking policy; (3) prepaid unlocking policy; (4) notice; (5) response time; and (6) deployed personnel unlocking policy. In summary, service providers who abide by these commitments unlock handsets one year after activation for prepaid, and after fulfillment of a service contract, handset financing plan, or payment of an early termination fee for postpaid.

4. In addition to the industry’s voluntary unlocking standards, certain wireless service providers, as discussed below, are subject to unlocking requirements as a result of rules specific

to certain frequency bands or to merger commitments. These Government-imposed unlocking requirements are more stringent than the industry's voluntary unlocking standards. In addition, the providers subject to these requirements could face possible enforcement action if they were found to be out of compliance.

5. Section 27.16(e) of the Commission's rules prohibits the locking of handsets that operate on the 700 MHz C Block frequency bands. Under this rule, no C Block licensee "may disable features on handsets it provides to customers, to the extent such features are compliant with the licensee's standards . . . nor configure handsets it provides to prohibit use of such handsets on other providers' networks." The Commission adopted this rule in the 2007 700 MHz *Second Report and Order* (72 FR 48814, Aug. 24, 2007) as part of a set of "open platform" requirements imposed upon C Block licensees. Specifically, the Commission determined that C Block licensees "will not be allowed to disable features or functionality in handsets where such action is not related to reasonable network management and protection, or compliance with applicable regulatory requirements." As an example of this open platform requirement, the Commission stated that C Block licensees "may not 'lock' handsets to prevent their transfer from one system to another." The Commission noted that "[h]andset or phone 'locking' . . . is one practice that arguably prevents consumers from migrating otherwise technically compatible equipment from one wireless service provider to another."

6. As one of the 700 MHz C Block licensees, Verizon must comply with this requirement. In 2019, however, the Wireless Telecommunications Bureau granted Verizon a partial waiver of this unlocking requirement to better combat identity theft and other types of handset-related fraud. The waiver allows Verizon to lock handsets that operate on the 700 MHz C Block frequencies for 60 days from the date the handsets become active on its network. The Bureau found that allowing handsets to be locked for 60 days to combat handset fraud would not significantly interfere with the policy objective of enabling consumers to be able to migrate from one service provider to another on compatible networks.

7. Further, as part of the *Verizon-TracFone Order*, Verizon agreed to extend its 60-day unlocking policy to all 700 MHz C Block handsets purchased from TracFone subject to a two-year

waiver of the automatic unlocking requirement to allow manual unlocking for those TracFone handsets that did not have automatic unlocking capabilities. For 700 MHz C Block TracFone handsets that operate on its network and lack an automatic unlocking capability, Verizon agreed to provide these customers with manual means to unlock their handsets 60 days after activation. Verizon also agreed that after a two-year period, any new 700 MHz C Block TracFone handsets that Verizon offered and that operate on its network would be capable of automatically unlocking.

8. As a result of these Commission-imposed unlocking conditions, Verizon, after the expiration of the initial 60-day period, must automatically unlock a customer's handset regardless of whether: (1) the customer asks for the handset to be unlocked or (2) the handset is fully paid off. With respect to the Verizon unlocking requirements, the Commission has stated that limiting handset locking periods reduces barriers to consumers being able to switch between wireless service providers.

9. Similarly, T-Mobile operates under an unlocking requirement imposed as a merger condition in connection with the *T-Mobile—Sprint* merger. Under merger conditions imposed by the Department of Justice in connection with the Amended Final Judgment, T-Mobile is required to unlock prepaid handsets within a year of activation on its wireless network. The Amended Final Judgment states that T-Mobile must "unlock prepaid mobile wireless devices no later than one (1) year after initial activation, consistent with reasonable time, payment, or usage requirements." With respect to postpaid handsets, the Amended Final Judgment requires T-Mobile to unlock these handsets only after a customer fulfills the term of the postpaid service contract or handset financing plan, or pays any applicable early termination fee.

10. Further, as part of the recent *T-Mobile-Mint Mobile/Ultra Mobile Order*, T-Mobile made commitments, which were imposed as merger conditions, to implement a 60-day handset unlocking period, subject to certain limitations and exceptions, for all Mint Mobile and Ultra Mobile handsets activated on the T-Mobile network both before and after the closing of the transaction. Handsets subject to a financing plan are not subject to this policy unless a customer pays off the handset early. T-Mobile agreed to automatically unlock new and existing Mint Mobile and Ultra Mobile handsets that are capable of automatic unlocking or provide a means to manually unlock these handsets if they are not capable of automatic unlocking

if the handsets have been activated on the T-Mobile network for at least 60 days and are not currently on a handset financing plan. No later than 24 months after the closing of the transaction, T-Mobile will ensure that all new Mint Mobile and Ultra Mobile handsets that the company offers will be capable of automatic unlocking.

11. With the exception of these specific Government-enforced unlocking requirements, mobile wireless service providers are free to adjust their unlocking requirements, including increasing the unlocking waiting period. For instance, T-Mobile recently increased its locking period for one of its brands, Metro by T-Mobile, from 180 days to 365 days.

### III. Discussion

12. In the NPRM, we tentatively conclude that adopting a broadly applicable set of handset unlocking requirements for all mobile wireless service providers would serve the public interest, and we seek comment on which specific requirements would best facilitate competition and consumer choice. We propose to require all mobile wireless service providers to unlock handsets 60 days after a consumer's handset is activated with the provider, unless within the 60-day period the service provider determines the handset was purchased through fraud. We find that there are several factors favoring our proposed unlocking policy.

13. First, having a uniform unlocking policy increases market transparency. We recognize that the CTIA Unlocking Commitments require service providers to post on their websites their policies on postpaid and prepaid handset unlocking. Nonetheless, we tentatively conclude that imposing a uniform handset unlocking policy is likely to increase the information available to consumers, reduce possible consumer confusion, and improve consumer choice through improved information.

14. Second, the locking of handsets can pose a barrier to consumers' ability to switch service providers. Reducing the period during which a provider can lock a handset should reduce switching costs and increase a consumer's ability to change providers in response to changing market prices and service characteristics, new technology, or changes in a consumer's circumstances or needs, which should increase consumer welfare. As a result, consumers will incur fewer direct costs when they do switch and will be less likely to be deterred from switching because of the locked handset.

15. Third, by reducing switching costs and increasing consumers' ability to switch, restrictions on handset locking can increase competition among wireless providers, which can lead to lower prices, more attractive service characteristics, and improved service performance. In this regard, we note that the Commission has found that handset locking may inhibit competition by making it more difficult for consumers to switch among service providers, and, in order to encourage competition and preserve consumer choice and flexibility, it has adopted handset unlocking requirements in the context of rules for specific spectrum bands and as merger commitments. Service providers' handset unlocking practices have also been the subject of consumer complaints and inquiries received by the Commission.

16. Finally, to the extent the Commission adopts this proposal, this change would result in all wireless providers facing the same regulatory constraints, which should reduce regulatory asymmetries and result in more competitively neutral regulation.

17. We note that regulators in other countries have restricted or prohibited handset locking on the grounds that it limits consumer choice and reduces competition. For example, in 2017, the Canadian Radio-television and Telecommunication Commission (CRTC) required that all mobile wireless devices provided to consumers by wireless service providers must be unlocked, and for already locked devices, the providers were required to unlock the device upon request without charge. In adopting this requirement, the CRTC found that "[un]locked devices offer more consumer choice and convenience, contribute to a decreased risk of bill shock by providing options to consumers while travelling abroad, and reduce a significant barrier to switching wireless service providers by improving device portability." Similarly, Ofcom, the United Kingdom's telecom regulatory agency, banned the sale of locked handsets in 2020, with the ban becoming effective in December 2021. Ofcom found, *inter alia*, that handset locking: (1) imposed costs and delays on customers seeking to unlock a device and switch providers; (2) deterred some customers from switching providers; and (3) reduced competition. Other countries have also placed limits on the ability of wireless providers to lock customers' handsets. For example, in 2015, Japan required all wireless providers to sell wireless devices with their Subscriber Identity Module or SIM cards unlocked if a customer asked for it. Singapore banned mobile operators

from selling SIM locked devices in 1997 in an effort to facilitate competition and improve consumer choice.

18. Economic theory also suggests that switching costs, of which handset locking is a form, may reduce competition by locking in customers to a particular provider. Large switching costs tend to lock in buyers when they make an initial purchase, so that they are effectively buying a series of goods over time. While competition, in certain circumstances, may be efficient even in the presence of switching costs, in certain instances, it will not be efficient. For example, consumers may incur direct costs if they switch providers or they may be deterred from switching to the provider that best serves their needs at the lowest price. In addition, while high switching costs may increase a provider's incentive to compete for a customer initially, it may reduce its incentive to lower prices in subsequent periods after a customer is locked in. Thus, a consumer may enjoy lower prices during the initial period, but then have to pay higher prices in subsequent periods, or not be able to switch to a provider offering a superior service or lower price.

19. Consumer groups also support restricting handset locking. They have "long argued that 'the practice of locking phones can reduce wireless competition by making it more difficult for consumers to change carriers, and by reducing the number of devices available on the secondary market.'" For example, consumers may incur direct costs if they actually switch, and if they do not, they may not end up purchasing from their preferred provider. Consumer groups further note that "[s]maller carriers, new entrants, and [mobile virtual network operators or] MVNOs in particular may be disadvantaged in the marketplace due to a lack of handset availability." Further, they explain that "[l]ocked phones, particularly those tied to pre-paid plans, can disadvantage low-income customers most of all, since they may not have the resources to switch carriers or purchase new phones." In addition, in an *ex parte* letter filed in the recent T-Mobile-Mint Mobile/Ultra Mobile proceeding, Verizon contends that the Commission's approach of imposing handset unlocking requirements on a piecemeal basis has resulted in asymmetrical regulation and unequal marketplace conditions among service providers and that such conditions harm consumers and competition. Another recent *ex parte* letter from a group of consumer advocacy organizations and service providers contends that adopting a uniform handset unlocking policy that

applies to all providers would benefit consumers and promote competition among service providers.

20. Based on the above discussion, we tentatively conclude that we should adopt a broadly applicable handset unlocking requirement for all mobile wireless service providers, and we propose to require all mobile wireless service providers to unlock handsets 60 days after a consumer's handset is activated with the provider, unless within the 60-day period the service provider determines the handset was purchased through fraud. We tentatively conclude that imposing a broadly applicable handset unlocking requirement would have a larger impact by promoting greater competitive choices for all mobile wireless subscribers. We seek comment on this view and on the importance of adopting a more broadly applicable handset unlocking requirement for promoting consumer choice and competition. Additionally, we tentatively conclude that adopting such a requirement would have the benefit of providing for uniform regulation of all mobile wireless providers.

21. More specifically, we seek comment on whether, in addition to allowing greater consumer choice, our proposal would increase competition both with respect to prepaid and postpaid service plans. We also seek comment on how our proposal might affect the incentive and ability of wireless providers to continue offering discounts on handsets, particularly in connection with extended payment plans, and lower prices on plans with minimum term commitments. We note in this regard that Verizon, which is subject to a 60-day handset unlocking requirement, continues to offer discounts on devices purchased under extended payment plans. In addition, we seek comment on how our proposed policy might affect lower-income consumers or those with poorer credit ratings. We also seek comment on other consumer impacts of the proposed unlocking requirement, including any digital equity implications. How would a 60-day device unlocking requirement impact efforts by the Commission, wireless providers, or other stakeholders to close the digital divide? Would such a requirement increase or decrease consumer access to or selection of handsets? Further, we seek comment on whether current handset locking policies have dissuaded consumers from switching providers to more competitive service offerings. Are there other practices that may hinder consumer choice when switching mobile wireless service providers that the Commission

should address? Finally, we seek comment on any alternative approaches to handset unlocking that would achieve our objective of promoting consumer choice and competition.

22. *Time Period for Unlocking to Address Handset Fraud.* While the Commission has found that handset unlocking reduces barriers to changing service providers, the Commission also has determined that allowing handsets to be locked for 60 days to combat handset fraud does not significantly interfere with this policy objective. Along these lines, we propose to require that all mobile wireless service providers unlock handsets 60 days after a consumer initiates service with the provider, unless within the 60-day period the service provider determines the handset was purchased through fraud. Under this approach, the handset unlocking requirement would apply to all mobile wireless service providers prospectively and would require them to unlock all handsets that are activated on their networks after 60 days. The 60-day period would be consistent with the 60-day handset unlocking requirement that the Commission has applied previously as described above.

23. We seek comment on this proposal. Commenters supporting a handset unlocking rule should provide examples of how the rule should read. Our proposal includes an exception to the 60-day unlocking requirement, if during the 60-day locking period a service provider determines that a handset was purchased through fraud. We seek comment on how a service provider would determine if a handset was purchased through fraud. What criteria should the service provider use? Should the rule permit any other exceptions to deter fraud including instances where individuals or groups illegally obtain devices and resell them to the public (*i.e.*, handset trafficking)? For example, should lost or stolen phones also fall under an exception to the 60-day unlocking requirement? We seek comment on the potential economic impact or burdens of a 60-day unlocking requirement, particularly for small and rural wireless service providers. Would such a general unlocking requirement affect small and rural wireless service providers and wireless resellers differently as compared to national service providers and, if so, how? Is there a different approach to achieving our objective of promoting consumer choice and competition that we should consider?

24. Alternatively, should we require service providers to unlock handsets after a period shorter or longer than 60 days? For example, should we require

all handsets to be unlocked by default upon activation? Or, should we require all handsets to be unlocked after the end of the handset's return period or after the first payment on the handset has been processed? Would a standardized time period of a certain number of days be easier to implement and enforce than non-standardized time periods based on return periods or billing cycles? What is the minimum amount of time service providers need to protect themselves from handset fraud? Rather than locking handsets, are there other ways service providers can protect themselves from handset fraud that would allow the Commission to prohibit the locking of handsets altogether?

25. How prevalent is handset fraud and would adopting a 60-day handset unlocking requirement be sufficient to deter fraud? How prevalent is handset trafficking and would adopting a 60-day handset unlocking requirement be sufficient to deter trafficking? Commenters that argue that handset fraud or handset trafficking is common should provide data supporting this assertion. If a wireless service provider determines that a handset has been fraudulently purchased, can the service provider remotely lock the handset at issue or deactivate the handset so it will no longer operate on the provider's network or any other wireless network? Do the security features of smartphones sold today include adequate protection against theft so that service providers no longer need to lock the handset to prevent theft or trafficking? For example, could a service provider remotely lock or deactivate a handset if it determined that it was obtained fraudulently or stolen? More generally, are there other ways service providers could protect against fraud or trafficking that would not involve handset locking? Could a criminal override any of these alternative methods of fraud or trafficking prevention?

26. *Impacts on Contractual Arrangements.* As stated above, we propose to apply this requirement prospectively, and we seek comment on whether this approach would avoid interfering with current contractual arrangements between service providers and consumers. What impact would the rule have on contractual arrangements already in existence between service providers and consumers? For handsets that have already been activated on a wireless provider's network, should we continue to rely on the voluntary unlocking commitments and the Government-imposed unlocking conditions?

27. We also seek comment on the impact of a 60-day unlocking

requirement in connection with service providers' incentives to offer discounted handsets for prepaid and prepaid service plans. Verizon, for example, suggests that providers may rely on handset locking to sustain their ability to offer handset subsidies and that such subsidies may be particularly important in prepaid environments. Public interest groups, on the other hand, argue that locked handsets tied to prepaid plans can disadvantage low-income customers most of all since they may not have the resources to switch service providers or purchase new handsets. They also note that unlocked handsets "facilitate a robust secondary market for used devices, providing consumers with more affordable options." We seek comment on these arguments. We also seek comment on the impact of a 60-day unlocking requirement on the incentive and ability of a provider to offer term contracts at discounts.

28. What factors should the Commission consider in determining how best to balance the needs of service providers to ensure that they are reimbursed for the handsets that they have subsidized and the needs of consumers with locked handsets to be able to take their handsets to another mobile wireless service provider? Given that a 60-day unlocking requirement already applies to Verizon and Verizon continues to remain competitive in the marketplace, we anticipate that a rule requiring unlocking after a 60-day period would maintain provider incentives to offer handset subsidies while reducing barriers for consumers to switch among service providers. We seek comment on this view. Do commenters agree with arguments that such a requirement would benefit smaller providers, new entrants, and MVNOs, by increasing the number of handsets available on the secondary market? Would it help consumers by providing them with more affordable handset options? Should the Commission consider adopting a different handset unlocking rule for prepaid and postpaid handsets?

29. *Transition Period and Implementation.* If we were to adopt a 60-day unlocking requirement, we seek comment on an appropriate transition period and on any implementation issues we should consider. Should the unlocking requirement become effective upon publication of the order adopting it in the **Federal Register** or should the Commission provide for a longer transition period? As noted above, the unlocking process may vary with different types of handsets. Depending on the handset, a service provider may automatically unlock the handset, send

instructions to a customer on how to unlock a handset upon request, or complete the unlocking process in-store. Given these differences, would a longer transition period be warranted? If so, what transition period should we adopt? Are there reasons why we should allow a longer transition period for non-nationwide service providers, such as small and rural service providers, as compared to nationwide service providers? What are the percentages of handsets that are currently locked and unlocked to wireless networks? Should we require automatic unlocking for those handsets that can be unlocked automatically?

30. Should we also require that mobile wireless service providers transition to provide for automatic unlocking of all new handsets that they offer? The Commission adopted such a requirement as part of the handset unlocking conditions imposed in the Verizon/TracFone and the T-Mobile-Mint Mobile/Ultra Mobile transactions. In those cases, Verizon and T-Mobile, respectively, were required to commit to ensuring that all new handsets activated on their network would be capable of automatic unlocking after a two-year period. If we adopt a handset unlocking requirement generally for all mobile wireless service providers, should we also require them to ensure that, after a two-year period, all new handsets activated on their networks will be capable of automatic unlocking? If so, would automatic unlocking be accomplished through a software push to a handset or is there another way to accomplish automatic unlocking? We seek comment on whether there are any technical or other implementation issues associated with such an approach and whether these implementation issues might be different for small or rural service providers.

31. Further, we seek comment on how customers should be informed about a service provider's unlocking policies and whether we should require service providers to notify their customers when their handset locking period has ended or when their handsets have been automatically unlocked. Along these lines, should we require service providers to post on their websites their unlocking policies? Should we also adopt a requirement that the unlocking policy be expressed using clear and easy to understand language? In addition to requiring service providers to post their unlocking policies on their websites, should we require service providers to post their unlocking policies in their stores and that store employees be available to explain the service provider's unlocking policies to

customers at the time they purchase handsets? How do we ensure that service providers fully disclose to their customers their unlocking policies at the time a customer purchases a handset? Further, should we require service providers to notify their customers when their handsets are ready to be unlocked or that their handsets have been automatically unlocked? For instance, should we require service providers to send a text message to a customer's handset when the locking period for the handset has expired or when the customer's handset has been automatically unlocked? Should we also require that the service provider contact the customer by email or by a letter sent to the customer's billing address? How do we ensure that service providers fully disclose their unlocking policies to their customers and that customers are aware that the locking period for their handsets has ended or that their handsets have been automatically unlocked?

32. *Legal Authority.* We propose to rely on our legal authority under title III of the 1934 Communications Act, as amended (the Act) to protect the public interest through spectrum licensing and regulations to require mobile wireless service providers to provide handset unlocking. The Commission relied previously on its title III authority in prohibiting 700 MHz C Block licensees from locking handsets as part of a broader set of open platform requirements that were intended to foster consumer choice and the development of innovative handsets and applications. In doing so, the Commission noted that its authority under title III allowed it to establish license conditions and operational obligations, if the condition or obligation will further the goals of the Communications Act without contradicting any basic parameters of the agency's authority.

33. We tentatively conclude that title III also would permit the Commission to more broadly require unlocking of handsets for all mobile wireless service providers. For example, section 303(b) directs the Commission, as required by the public interest, to "[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within any class." Section 303(g) authorizes the Commission to "generally encourage the larger and more effective use of radio in the public interest." Section 303(r) provides the Commission authority to "make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of

[the Act]." In addition, section 316 authorizes the Commission to adopt new conditions on existing licenses if it determines that such action "will promote the public interest, convenience, and necessity."

34. We propose to rely on this authority to require mobile wireless service providers to unlock handsets. Our proposal to require unlocking of handsets would prescribe the nature of service that a mobile wireless service provider must offer when providing mobile wireless services. By giving consumers greater freedom to switch between mobile wireless service providers, the proposed requirement would serve the public interest and help the Commission meet its responsibility to ensure the availability of communications services. We tentatively conclude that such requirements would also be supported by section 332(c)(1) and provisions of title II, which require common carriers' practices to be "just and reasonable," and prohibit and authorize the Commission to "prescribe rules and regulations as may be necessary in the public interest to carry out the provisions of [the Act.]" We seek comment on this analysis and on other sources of authority for handset unlocking requirements.

35. *Promoting Digital Equity and Inclusion.* The Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations, and invites comment on any benefits (if any) that may be associated with the issues discussed herein. Specifically, we seek comment on how the potential approaches discussed herein may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

#### **IV. Initial Regulatory Flexibility Analysis**

36. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared the Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies proposed in the Notice of Proposed Rulemaking (NPRM). The Commission requests written public comments on the IRFA. Comments must

be identified as responses to the IRFA and must be filed by the deadlines for comments provided in the **DATES** section of this document. The Commission will send a copy of the *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

*A. Need for, and Objectives of, the Proposed Rules*

37. In the *NPRM*, the Commission explores the use of handset unlocking policies as a means to improve consumer choice and flexibility and to enhance competition across the mobile wireless marketplace. Over the past two decades, the Commission adopted handset unlocking requirements for particular providers in specific circumstances, finding that doing so will serve the public interest. In the *NPRM*, the Commission tentatively concludes that adopting a broadly-applicable set of handset unlocking requirements for all mobile wireless service providers would better serve the public interest and the Commission seeks comment on which specific requirements would best facilitate competition and consumer choice. In addition, the Commission specifically seeks comment on whether a 60-day unlocking rule would benefit small mobile wireless service providers because consumers could switch service providers without having to purchase a new handset.

*B. Legal Basis*

38. The proposed action is authorized pursuant to sections 1, 4(i), 4(j), 303, and 316 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 303, and 316.

*C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

39. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act. A “small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

40. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, *according* to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

41. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

42. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments— independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

43. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services

using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees. Consequently, using the SBA’s small business size standard, most of these providers can be considered small entities.

44. *Satellite Telecommunications.* This industry comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees. Consequently, using the SBA’s small business size standard, a little more than half of these providers can be considered small entities.

45. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and

reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 207 providers that reported they were engaged in the provision of local resale services. Of these providers, the Commission estimates that 202 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

46. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 457 providers that reported they were engaged in the provision of toll services. Of these providers, the Commission estimates that 438 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard,

most of these providers can be considered small entities.

47. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (e.g., dial-up ISPs) or Voice over internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

48. The *NPRM* explores the use of handset unlocking policies as a means to improve consumer choice and flexibility and to enhance competition across the mobile wireless marketplace. The *NPRM* tentatively concludes that adopting a broadly-applicable set of handset unlocking requirements for all mobile wireless service providers would serve the public interest and seeks comment on which specific requirements would best facilitate competition and consumer choice. The *NPRM* proposes to require all mobile wireless service providers to unlock handsets 60 days after a consumer's handset is activated with the provider. If the Commission were to require all service providers to unlock handsets after a set period of time, the *NPRM* seeks comment on an appropriate transition period and on any implementation issues the Commission should consider. This includes asking whether the Commission should allow a longer transition period for non-nationwide service providers, such as small and rural service providers, as compared to nationwide service providers.

49. If the Commission ultimately decides to adopt its proposed approach,

this could potentially result in additional costs, new or modified recordkeeping, reporting, or other compliance requirements for small and other providers. For example, new handset unlocking rules may require wireless service providers to unlock handsets 60 days after a consumer initiates service with the provider. New handset unlocking rules may also require that mobile wireless service providers provide automatic unlocking for those handsets that can be unlocked automatically and that they transition to being able to automatically unlock all handsets that they offer for sale to consumers. The *NPRM* seeks comment on the impact of the proposed rule on non-nationwide service providers, such as small and rural service providers, if the Commission adopts a generally applicable handset unlocking rule.

50. At present, the record does not include a detailed cost/benefit analysis that would allow us to quantify the costs of compliance for small entities, including whether it will be necessary for small entities to hire professionals to comply with any rules that may be adopted. Small and other entities are encouraged to quantify the costs and benefits of any reporting, recordkeeping, or compliance requirement that may be established in this proceeding. The Commission expects the comments it receives on its proposals, and the matters discussed in the *NPRM* to include information addressing costs, benefits, and other matters of concern for small entities, which should help the Commission identify and better evaluate compliance costs and relevant issues for small entities before adopting final rules.

#### *E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

51. The RFA requires an agency to provide, "a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."

52. The *NPRM* seeks comment on implementing a broadly applicable handset unlocking requirement across the mobile wireless industry and proposes to require all mobile wireless service providers to unlock handsets 60 days after a consumer's handset is activated with the provider. The *NPRM*

seeks comment on the economic impact or other burdens of such an approach, particularly for small and rural wireless service providers. The *NPRM* asks whether such a general unlocking requirement would affect small and rural wireless service providers and wireless resellers differently as compared to national service providers and, if so, how. If the Commission were to require all service providers to unlock handsets after a set period of time, the *NPRM* seeks comment on an appropriate transition period and on any implementation issues the Commission should consider, especially with regard to small and rural service providers.

53. The Commission expects to consider more fully the economic impact on small entities following its review of comments filed in response to the *NPRM*, including costs and benefits information. Alternative proposals and approaches from commenters could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes to minimize any significant economic impact that may occur on small entities from the final rules.

*F. Federal Rules That May Duplicate, Overlap, or Conflict With Proposed Rules*

54. None.

**V. Ordering Clauses**

55. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 303(b),(g),(r), and 316(a), of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(b),(g),(r), 316(a), the Notice of Proposed Rulemaking *is adopted*.

56. *It is further ordered* that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the Notice of Proposed Rulemaking on or before 30 days after publication in the **Federal Register**, and reply comments on or before 45 days after publication in the **Federal Register**.

57. *It is further ordered* that the Commission's Office of the Secretary shall send a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2024-16642 Filed 8-7-24; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

**[MB Docket No. 24-224; RM-11988; DA 24-731; FR ID 235793]**

**Television Broadcasting Services  
Lubbock, Texas**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Video Division, Media Bureau (Bureau), has before it a Joint Petition for Rulemaking filed May 21, 2024, by Gray Television Licensee, LLC (Gray), the licensee of KCBD, Lubbock, Texas (KCBD), which is operating on channel 11 but previously held a construction permit for channel 36, and SagamoreHill of Lubbock, LLC (SagamoreHill), the licensee of KJTV-TV, channel 35, Lubbock, Texas (KJTV-TV). As discussed below, Gray and SagamoreHill request that the Bureau amend the Table of TV Allotments to permit the stations to "swap" channels and authorize KCBD to operate on channel 35 and KJTV-TV to operate on channel 11. Accordingly, we seek comment on substituting channel 11 for channel 35 and channel 35 for channel 36 at Lubbock, Texas (Lubbock).

**DATES:** Comments must be filed on or before September 9, 2024 and reply comments on or before September 23, 2024.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Joint Petitioner as follows: Joan Stewart, Esq., Wiley Rein, LLP, 2050 M Street NW, Washington, DC 20036 and Scott Woodworth, Esq., Edinger Associates PLLC, 1725 I Street, Ste. 300, Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, Video Division, Media Bureau, (202) 418-1647, at [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov); Emily Harrison, Video Division, Media Bureau, (202) 418-1665, at [Emily.Harrison@fcc.gov](mailto:Emily.Harrison@fcc.gov); or Mark Colombo, Video Division, Media Bureau, (202) 418-7611, at [Mark.Colombo@fcc.gov](mailto:Mark.Colombo@fcc.gov).

**SUPPLEMENTARY INFORMATION:** In 2021, at Gray's request, the Bureau amended the Table of TV Allotments to substitute UHF channel 36 for VHF channel 11 at Lubbock. Accordingly, channel 11 is no longer allotted to Lubbock in the Table of TV Allotments. Gray requested and was granted a construction permit to modify KCBD's facility to operate on channel 36 at Lubbock, using the existing broadband antenna currently used by KJTV-TV that is mounted on a tower located 5.5 kilometers from the licensed KCBD channel 11 site. Gray did not construct the facility. The Joint Petitioners now propose to "swap" the licensed channels and equipment for KCBD (channel 11) and KJTV-TV (channel 35). In order to effectuate this proposal, the Bureau must: (1) amend the Table of TV Allotments to substitute channel 11 at Lubbock for channel 35 and (2) amend the Table of TV Allotments to substitute channel 35 at Lubbock for channel 36. Upon grant of the proposed channel substitutions, the Joint Petitioners must simultaneously implement their proposed channel substitutions.

According to the Joint Petitioners, this proposal will serve the public interest because it will allow SagamoreHill to replace KJTV-TV's failing equipment with the equipment currently used by KCBD on channel 11. Specifically, Joint Petitioners state that KJTV-TV's tube transmitter is failing, that replacement parts for tube transmitters are not available, and that the cost for SagamoreHill to replace the transmitter for KJTV-TV's 1000 kW facility is prohibitively expensive. KCBD's channel 11 equipment, however, "is in good operating condition." According to the Joint Petitioners, because Gray had planned to invest in a new 1000 kW transmitter for KCBD on channel 36, it will be able to use the new transmitter to instead replace the failing channel 35 transmitter and operate KCBD on channel 35. In turn, Gray will provide SagamoreHill with its channel 11 equipment (*i.e.*, antenna, transmitter, etc.) that it had planned to decommission following its move to channel 36. With regard to the proposed channel substitutions, according to the Engineering Statement submitted with the Joint Petition, there would be no predicted loss area on channel 35 when compared to KCBD's previously-authorized channel 36 facility. There would in fact be a small gain of 191 persons. Further, the proposed channel 11 facility for KJTV-TV encompasses its currently licensed channel 35 facility, and thus would also not result in any viewer loss. In fact, moving KJTV-TV