



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Before the

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of Revision of Part 22 and Part 90 of the Commission's
Rules to
Facilitate Future Development of Paging Systems and
Implementation of Section 309(j) of the Communications Act --
Competitive Bidding

[WT Docket No. 96 - 18; PP Docket No. 93 - 253]

and

In the Matter of Amendment of Part 1 of the

The Commission agrees that Form 600 should be modified (as suggested by the FCC; see Second Report at ¶ 220) to include clear and conspicuous disclosures about (1) the FCC's regulations against speculating and trafficking in

comment on the types of ownership disclosures that should be required concerning applicants for auctioned licenses. See Bidding Rules Notice at ¶ 51.(17)

Although the majority of the Commission's cases in the FCC license area have involved application mills, the Commission also has brought cases against build-out telemarketers that sold consumers interests in partnerships that supposedly would operate telecommunications systems using licenses acquired through auction.(18) The Securities and Exchange Commission also has brought a large number of such cases.(19) In these cases, a telemarketer or its affiliate typically acquires a license through auction either as the bidder for a partnership or limited liability company composed of consumers who have paid the telemarketer \$10,000 or more each, or as the applicant

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3. See FTC v. Falcon Crest Communications, Inc., CV 95-4881 (ADS) (E.D.N.Y.); FTC v. United Consumer Services, Inc., 1:94-CV-3164-CAM (N.D. Ga.) (summary judgment for FTC ordered on Dec. 18, 1995). These two fraudulent services cases were brought prior to Project Roadblock, and similar businesses continue to operate.

4. This is not to suggest that there are no legitimate brokers of telecommunications properties. Legitimate brokerage services, however, deal in licenses associated with operational telecommunications systems, not bare licenses such as those held by victims of application mill fraud.

5. In an early postcard solicitation to consumers, one telemarketer warned:

[T]he FCC will be sending you a letter asking if you have constructed your station within the few months allowed by the Code of Federal Regulations.... Do you need more time? File an extension request in accordance with the FCC's Code of Federal Regulations. Call _____ today.

6. See Daniel R. Goodman, Receiver; Dr. Robert Chan, Memorandum Opinion and Order, 10 FCC Rcd 8537 at ¶¶ 27-28 (1995). According to FCC records, as of March 1997 one telemarketer alone had submitted extension petitions for nearly 1,800 shared paging and SMR licenses. The FCC has denied 1,500 of these petitions, and the remaining petitions are pending.

7. A current postcard from the telemarketer claims:

The FCC has not treated all licensees equally! Stop sweating the loss and demand your rights. Others were given more time to profit from their licenses, while yours was taken away. Don't be discriminated against by your own government. We can help you...

...use the FCC's own rules to demand equality.

...file a personal, 50 page motion to demand your rights.

...establish the grounds for a future class action law suit.

...postpone any current action by the FCC.

What will this cost? Only \$395, a fraction of your investment, and volume discounts are available. Call _____ TODAY to preserve your rights.

8. One such solicitation letter stated:

The result of the now famous freeze initiated by the FCC on 2/8/96 is that your license is the last of its kind. Your license gives you the right to build out that system as long as the system is built out before the anniversary date of the issuance of the license. According to FCC rules, you must construct and operate the system for a year before you are permitted to apply to transfer or assign the license. Once you have complied with these requirements, you now

22. The FCC already requires such disclosures by bidding agents in auctions for broadband PCS licenses. 47 C.F.R. § 24.813. The FCC also requires additional ownership disclosures depending on the service being auctioned. See Bidding Rules Notice at ¶¶ 49-50.

23. The potential benefits that flow from these recommended disclosures depend upon the use the FCC might make of the information. Notably, in the Second Report, the FCC states that it has enhanced its efforts to communicate with consumers by releasing a Consumer Alert and training the operators at its Call Center. See Second Report at ¶ 121. These efforts can succeed only if the likely victims are aware of them.

24. The FCC may decide that providing the auction bidder packages to each owner applicant is impractical because