

its own motion within 40 days of the public notice date.

46. We note that we want to ensure that we have sufficient information about lease arrangements in order to effectuate our public interest responsibilities while minimizing the burden on the filing parties in terms of the information they must submit to the Commission. Accordingly, we request parties to discuss the types of information and level of detail that should be included in leasing notifications filed in accordance with this proposed procedure. How much detail should the parties provide regarding the ownership and affiliates of a lessee? What information should the parties provide about any spectrum overlaps created by a spectrum lease?

#### c. Compliance With the Forbearance Standard

47. As noted above, forbearance from prior approval for spectrum leases involving a transfer of *de facto* control would be available only where telecommunications carriers and telecommunications services are involved in the transaction. We believe that, if we establish the benchmarks outlined above or something comparable, forbearing from the public notice and prior approval requirements would meet the test imposed by section 10.

48. We request commenters to address whether the conditions we have proposed above for permitting leases to proceed without prior public notice and Commission review and approval satisfy the section 10 requirements to support adoption of forbearance. Specifically, have we accurately assessed satisfaction of the section 10 requirements in this context? Can parties provide any further explanation why forbearance from the 30-day public notice period and individualized prior Commission review and approval supports a finding that the section 10 test has been met? Are there other factors that need to be assessed in making the section 10 determination? To the extent parties suggest alternative or additional conditions and benchmarks to be used to define leasing arrangements that can be processed on a forbearance basis, we request that they address in detail the section 10 implications of their proposals.

#### 2. Eliminating Prior Commission Approval for Spectrum Leases Involving Non-Telecommunications Carriers and Non-Telecommunications Services

49. Because our section 10 forbearance authority applies only to providers of telecommunications

services, we may forbear from applying section 310(d) requirements only for leases involving telecommunications carriers and telecommunications services. Nevertheless, we wish to explore whether we can provide similar relief to parties whose lease transactions otherwise meet the conditions we have proposed above for forbearance processing but do not fall within the scope of section 10. We believe such action is necessary and appropriate in order to place substantively similar wireless transactions involving different types of licenses on a comparable basis and to minimize unnecessary regulatory discrimination.

50. As a practical matter, many licenses that are beyond the scope of section 10 are not subject to the statutory requirement of 30 days public notice prior to Commission approval, which applies only to common carrier and broadcast licenses. Nonetheless, section 310(d) requires prior Commission review and approval of all transaction applications involving non-common carrier and non-broadcast licenses (as well as applications involving common carrier and broadcast licenses). While the review period may be shortened because the 30-day public notice period is not required as part of that process, the requirement of prior Commission approval can still cause delays and costs for parties seeking to enter into such transactions, many of which raise no significant public interest issues.

51. We therefore seek comment on whether and how the Commission can structure its review to minimize possible delays in processing time for leases involving non-telecommunications carriers and non-telecommunications services. (We note that this proposal encompasses only services covered by the *Report and Order* and services that might be added pursuant to this *Further NPRM*. Are there policy or legal barriers to designating additional categories of leases involving non-telecommunications carriers and non-telecommunications services that would not be subject to prior approval? Do we have authority to take action under other existing provisions of the Communications Act? Are there any other steps we can take in our processing of spectrum lease applications and/or notifications related to such facilities to help place these types of filings on comparable footing with spectrum leases involving only telecommunications services and telecommunications carriers?

#### 3. Forbearance With Respect to Certain Transfers and Assignments

52. We seek to promote secondary markets generally. Secondary markets include not only spectrum leasing arrangements but also transfers of control of licensees and assignment of licenses. In order to not distort the marketplace in favor of spectrum leases and against transfers or assignments that might otherwise be pursued as a matter of sound business decision-making, we believe it is important to ensure that leases involving the temporary transfer of *de facto* control and transfers and assignments involving the permanent transfer of *de facto* and *de jure* control are treated consistently to the extent feasible under our statutory obligations. We further believe that many of the same policy and public interest considerations that apply in the leasing context are equally applicable to transfers and assignments. Accordingly, we seek comment in this section on whether to use our forbearance authority to permit certain transfers of control and assignment of licenses to proceed without prior individualized Commission review and consent, based on benchmarks similar to those we propose to use in the leasing context. We ask parties to address whether the differences between a transfer of *de jure* and *de facto* control, on the one hand, and the transfer of *de facto* control alone pursuant to a lease agreement, on the other hand, warrant similar or distinct regulatory treatments. In addition to the fact that one type of transaction involves a transfer of *de jure* control, we note that such a transfer also is irrevocable. Under a lease, in contrast, the licensee retains an interest in the authorization and may revoke the lease under the terms agreed to by the parties or as prescribed by our rules and policies.

53. Specifically, we seek comment on whether transfers of control and assignment of licenses (including applications proposing to disaggregate spectrum and/or partition a geographic area, or a partial assignment) meeting certain conditions or benchmarks could be eligible for a forbearance-based notification-only consent process. Could we determine that prior review of such transactions is not necessary to fulfill our public interest duties and goals? Clearly, any transfer and assignment arrangements found to be eligible for forbearance-based regulatory processing must be subject to appropriate conditions to ensure that crucial Commission policies are not thwarted by means of secondary market arrangements. Would allowing these categories of transactions to proceed