

the government for unjust enrichment for leasing spectrum to a lessee in the same manner as it would have been required to pay had the licensee instead transferred it to that entity. Further, in accordance with the Commission's rules and any applicable notes and security agreements, we will continue to hold a licensee participating in the Commission's installment payment program solely responsible for the debt obligation to the government. We believe that holding otherwise would allow entities to circumvent the rules concerning designated entities and would undermine the Commission's policies underlying those rules. The designated entity rules implement an explicit Congressional mandate to the Commission to allocate licenses so as to promote "economic opportunity and competition," and to "ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wider variety of applicants, including small businesses." If we did not require designated entities to abide by any applicable designated entity eligibility and unjust enrichment rules and policies when leasing to non-designated entities, parties could easily undermine rules fulfilling our Congressional mandate to set aside spectrum for the sole use of designated entities.

170. *Spectrum manager subleasing.* We anticipate no adverse impact on small entities from our decision to allow spectrum manager lessees to sublease their spectrum usage rights under certain conditions. In fact, subleasing would likely benefit small (and large) entities by offering additional flexibility to obtain spectrum that fits an entity's particular business needs.

171. *Spectrum manager leasing arrangements—notification to the Commission.* The *Report and Order* requires licensees that enter into a spectrum manager leasing arrangement to provide notification of the lease arrangement to the Commission. We anticipate no adverse economic impact on small entities as a result of requiring this notification filing. The required notification is not onerous, and will provide the Commission, other spectrum licensees (including small entities), other spectrum lessees (including small entities), potential spectrum lessees (including small entities), and the public with essential information about spectrum usage. It will also help to ensure licensee and lessee compliance with our interference, service, and other rules and policies.

172. *De facto transfer leasing arrangements—streamlined approval procedures.* The *Report and Order* adopts a streamlined prior approval process for parties entering into *de facto* transfer leasing arrangements pursuant to streamlined approval procedures. These streamlined procedures, designed to facilitate spectrum leasing to the greatest extent possible and consistent with the public interest, apply equally to small and large entities, and amount to a reduction in applicable regulatory requirements. We anticipate no adverse impact on small entities as a result of this action. In fact, our adoption of this second spectrum leasing option and related streamlined processing requirements should further enhance the development of more robust secondary markets in spectrum usage rights resulting in increased benefits to small (and large) entities seeking greater flexibility and increased access to spectrum. We believe that small entities that might not be able to afford to acquire spectrum at auction will be able to reduce their spectrum acquisition costs and access a particular amount of spectrum that meets their individual business needs.

173. In addition, the information collected under this streamlined approach is similar to what is currently required under our transfer and assignment rules and should facilitate spectrum leasing by reducing transaction costs, uncertainty, and delay. While an alternative would be to require no approval, we believe that this would run counter to our statutory responsibilities under section 310(d) of the Communications Act.

174. *De facto transfer subleasing.* We anticipate no adverse impact to small entities from our decision to allow *de facto* transfer lessees to sublease their spectrum usage rights under certain conditions. Consistent with our rationale concerning spectrum manager subleasing, we believe that subleasing under *de facto* transfer leasing arrangements would likely benefit small (and large) entities by offering additional flexibility to obtain spectrum that fits an entity's particular business needs.

175. *Short-term de facto transfer leasing arrangements.* In the *Report and Order*, we extend many of the policies applicable to long-term *de facto* transfer leasing arrangements to short-term *de facto* transfer leasing arrangements, except that we ease certain restrictions on lessees that enter into short-term *de facto* transfer leasing arrangements. We anticipate no adverse impact on small entities from this action. Due to the fact that these short-term leases are intended

to address temporary spectrum needs, we believe that it is appropriate to permit additional flexibility for such arrangements. Thus, for example, we will allow licensees with authorizations that limit use to non-commercial purposes to enter into lease agreements that allow the lessee to use the spectrum commercially. Similarly, we will not subject licensees entering into short-term leases to designated entity unjust enrichment provisions or to entrepreneur transfer restrictions that would be applicable if a designated entity or entrepreneur licensee were to enter into a long-term lease arrangement or transfer or assign its license. Our approach here should benefit small (and large) entities by facilitating the use of short-term leases that meet temporary spectrum needs while maintaining the integrity of other Commission policies.

176. *Streamlined processing for transfer of control and license assignment applications.* In addition to establishing spectrum leasing policies, the *Report and Order* also extends the same type of streamlined approval procedures applicable to long-term *de facto* transfer leasing arrangements to our review and approval procedures for license assignments and transfers of control in those services affected by our spectrum leasing policies. We anticipate no adverse impact on small entities as a result of this action. In fact, more timely processing of transfer of control and license assignment applications should benefit small (and large) entities in the same manner as contemplated by our streamlined approval procedures for long-term *de facto* transfer leasing, should promote the efficient operation in the marketplace of both small and large entities, and should benefit the public.

6. Report to Congress

177. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

V. Ordering Clauses

178. Pursuant to the authority of sections 1, 4(i), 8, 9, 10, 301, 303(r), 308,