

**Section II. Adjustment Criteria for Section 503 Forfeitures***Upward Adjustment Criteria*

- (1) Egregious misconduct.
- (2) Ability to pay/relative disincentive.
- (3) Intentional violation.
- (4) Substantial harm.
- (5) Prior violations of any FCC requirements.
- (6) Substantial economic gain.
- (7) Repeated or continuous violation.

*Downward Adjustment Criteria*

- (1) Minor violation.

- (2) Good faith or voluntary disclosure.
- (3) History of overall compliance.
- (4) Inability to pay.

**Section III. Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment Factors**

Unlike Section 503 of the Act, which establishes maximum forfeiture amounts, other sections of the Act, with one exception, state prescribed amounts of forfeitures for violations of the relevant section. These amounts are then subject to mitigation or remission under Section 504 of the Act. The one exception is Section 223 of the Act,

which provides a maximum of \$50,000 per day. For convenience, the Commission will treat the \$50,000 set forth in Section 223 as if it were a prescribed base amount, subject to downward adjustments. The following amounts were adjusted for inflation pursuant to the Debt Collection Improvement Act of 1996 (DCIA) Public Law 104-134, section 31001, 110 Stat 1321 (1996). The new amounts became effective on March 5, 1997. These non-Section 503 forfeitures may be adjusted downward using the "Downward Adjustment Criteria" shown for Section 503 forfeitures in Section II of this note.

Violation	Statutory amount (\$)
Sec. 202(c) Common Carrier Discrimination .....	6,600 330/day.
Sec. 203(e) Common Carrier Tariffs .....	6,600 330/day.
Sec. 205(b) Common Carrier Prescriptions .....	13,200.
Sec. 214(d) Common Carrier Line Extensions .....	1,200/day.
Sec. 219(b) Common Carrier Reports .....	1,200.
Sec. 220(d) Common Carrier Records & Accounts .....	6,600/day.
Sec. 223(b) Dial-a-Porn .....	55,000 maximum/day.
Sec. 364(a) Ship Station Inspection .....	5,500 (owner).
Sec. 364(b) Ship Station Inspection .....	1,100 (vessel master).
Sec. 386(a) Forfeitures .....	5,500/day (owner).
Sec. 386(b) Forfeitures .....	1,100 (vessel master).
Sec. 634 Cable EEO .....	500/day.

\* \* \* \* \*

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**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 64**

[CC Docket 94-129; FCC 97-248]

**Unauthorized Changes of Consumer's Long Distance Carriers**

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** The Commission adopted a combined Further Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration which amends the Commission's rules and policies governing the unauthorized switching of subscribers' primary interexchange carriers (PICs), an activity more commonly known as "slamming." In the Order on Reconsideration, the Commission disposes of six petitions for reconsideration of its 1995 Report and Order, and amends its rules regarding changes in subscribers' long distance

carriers in three respects. The Commission's decision is intended to deter and ultimately eliminate unauthorized changes in subscribers' long distance carriers.

**EFFECTIVE DATE:** January 12, 1998 except for § 64.1150 which will become effective upon approval by the Office of Management and Budget. The Commission will publish a document at a later date announcing the effective date.

**FOR FURTHER INFORMATION CONTACT:** Cathy Seidel, Enforcement Division, Common Carrier Bureau (202) 418-0960.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration in CC Docket No. 94-129 [FCC 97-248], adopted on July 14, 1997 and released on July 15, 1997. The full text of the Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International

Transcription Services, 1231 20th Street, N.W., Washington, D.C.

**Summary of Memorandum Opinion and Order on Reconsideration***I. Background*

1. The Commission first established safeguards to deter slamming when equal access was implemented in 1985. By 1992, because the interexchange market had become more competitive, the need for additional safeguards to deter slamming increased. Therefore, the Commission adopted rules requiring that all IXCS institute one of four verification procedures before submitting a carrier change request generated through telemarketing on behalf of a customer. 7 FCC Rcd 1038 (1992), *recon. denied*, 8 FCC Rcd 3215 (1993). In 1994, the Commission on its own motion and in response to continuing complaints from subscribers regarding slamming, instituted a rule making and adopted rules in its *1995 Report and Order* 10 FCC Rcd 9560, 60 FR 35846 (July 12, 1995), establishing further anti-slamming safeguards to deter misleading letters of agency (LOAs). A LOA is a document signed by a subscriber which states that a

particular carrier has been selected as that subscriber's preferred carrier. Despite the Commission's anti-slamming efforts, the number of written slamming complaints received by the Commission in 1995 was 11,278, which represents a six-fold increase over the number of such complaints received in 1993. That number has continued to rise; over 16,000 such complaints were received in 1996. Shortly after, the adoption of the *1995 Report and Order* the Commission, on its own motion, stayed its *1995 Report and Order* insofar as it extends the PIC-change verification requirements set forth in § 64.1100 of the Commission's rules to consumer-initiated or in-bound telemarketing calls. The stay was imposed before the effective date of the *1995 Report and Order*. The consumer-initiated or in-bound telemarketing provision is the only component of its anti-slamming rules that the Commission stayed. The stay of this provision of the *1995 Report and Order* remains in effect.

## II. Discussion

2. Six parties filed petitions for reconsideration of the Commission's *1995 Report and Order*. Allnet sought clarification or, in the alternative, reconsideration of the language in § 64.1150(e)(4) to reflect the terms "interLATA" and "intraLATA" instead of "interstate" and "intrastate," respectively. AT&T, MCI and Sprint sought reconsideration and reversal of the Commission's decision to extend PIC-change verification requirements to consumer-initiated calling. MCI also sought reconsideration of the Commission's decision to permit the use of LOAs that double as checks. Frontier sought reconsideration of the Commission's LOA rules, maintaining that the rules should not apply to consumers who have executed written contracts to obtain an IXC's services. Finally, NAAG sought reconsideration of several aspects of the *1995 Report and Order*. Specifically, NAAG urged the Commission: (1) To eliminate, as a general rule, any liability for consumers if the switching IXC cannot document that the consumer authorized the switch in accordance with the law; (2) to modify § 64.1150 to require that: (a) LOAs be on a document separate from any promotional material, not just separable by a perforation; (b) combined check/LOAs be prohibited, unless additional safeguards are required; (c) if an LOA is provided in connection with any promotion, all or part of which is in a language other than English, the LOA must also be provided in that other language; and (d) any promotion in which any inducements to switch long

distance service are in a language other than English, must contain a full explanation and make all disclosures in each language used to make the inducements; and (3) to modify § 64.1100(d)(8) to eliminate the negative option in accordance with paragraph 11 of the *1995 Report and Order* and § 64.1150(f).

3. The Commission modifies its rules regarding changes in subscribers' long distance carriers in three respects. First, the Commission modifies § 64.1150(g) to clarify that carriers using letters of agency (LOAs) must fully translate their LOAs into the same language(s) as their associated promotional materials or oral descriptions and instructions. Second, the Commission modifies § 64.1150(e)(4) to incorporate the terms interLATA and intraLATA, as well as interstate and intrastate, in order to remove possible confusion or uncertainty about the scope of the Commission's rules, which are generally relevant to all jurisdictions. Third, the Commission modifies § 64.1100(a) to clarify that carriers must confirm change orders for long distance service generated by telemarketing using only one of the four verification options of § 64.1100. Aside from these modifications and seeking further comment in the accompanying Further Notice of Proposed Rule Making, the Commission otherwise declines to adopt the positions urged by petitioners.

## III. Final Regulatory Flexibility Analysis

4. As required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rule Making (NPRM) in the Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carrier, 9 FCC Rcd. 6885 (1994). The Commission sought written public comment on the proposals in the NPRM, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this Memorandum Opinion and Order on Reconsideration conforms to the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104-121, 110 Stat. 847 (1996), codified as Title II of the Contract With America Advancement Act of 1996 (CWAAA), 5 U.S.C. 601 *et seq.*

i. Need for and Objectives of This Memorandum Opinion and Order on Reconsideration and the Rules Adopted Herein

5. The Commission adopts in the Order on Reconsideration rules that: (1)

Modify § 64.1150(g) to clarify that interexchange carriers (IXCs) using LOAs must fully translate their LOAs into the same language(s) as their associated promotional materials, oral descriptions and instructions; (2) modify § 64.1150(e)(4) to incorporate the terms "interLATA and intraLATA," as well as "interstate and intrastate"; and (3) modify § 64.1100(a) to clarify that IXCs must employ only one of the four verification options in § 64.1100 to verify subscriber change orders generated by telemarketing. The objectives of the rules adopted in this Order on Reconsideration are to provide adequate safeguards to protect subscribers from unauthorized switching of their long distance carriers and to encourage full and fair competition among telecommunications carriers in the marketplace.

## ii. Summary and Analysis of the Significant Issues Raised by the Public Comments in Response to the IRFA

6. In the IRFA, the Commission found that the rules it proposed to adopt in this proceeding may have a significant impact on a substantial number of small businesses as defined by section 601(3) of the RFA. Specifically, small entities may feel some economic impact in additional printing costs due to the new requirement that IXCs must fully translate their LOAs into the same language(s) as their associated promotional materials, oral descriptions and instructions under § 64.1150(g). The IRFA solicited comment on alternatives to proposed rules that would minimize the impact on small entities consistent with the objectives of this proceeding. Although the Commission has requested further comment on a number of these rules, the Commission received no comment(s) on the potential impact on small business entities with respect to the rules the Commission adopted in this Order on Reconsideration.

## iii. Description and Estimates of the Number of Small Entities to Which the Rules Adopted in the Memorandum Opinion and Order on Reconsideration in CC Docket No. 94-129 Will Apply

7. For the purposes of this analysis, the Commission examined the relevant definition of "small entity" or "small business" and applied this definition to identify those entities that may be affected by the rules adopted in this Order on Reconsideration. The RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under

the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). Moreover, the SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have fewer than 1,500 employees.

#### Telephone Companies (SIC 4813)

**8. Total Number of Telephone Companies Affected.** The decisions and rules adopted by the Commission may have a significant effect on a substantial number of small telephone companies identified by the SBA. The United States Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone service, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers (LECs), IXC's, competitive access providers (CAPs), cellular carriers, mobile service carriers, operator service providers (OSPs), pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms are not IXC's, or may not qualify as small entities because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an IXC having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity IXC's that may be affected by this Order on Reconsideration.

**9. Wireline Carriers and Service Providers.** The SBA has developed a definition of small entities for telecommunications companies other than radiotelephone (wireless) companies (Telephone Communications, Except Radiotelephone). The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. Of the 2,321 non-radiotelephone companies listed by the Census Bureau, 2,295 companies (or, all but 26) were reported to have fewer than 1,000 employees. Thus, at least 2,295 non-

radiotelephone companies might qualify as small incumbent LECs or small entities based on these employment statistics. However, because it seems certain that some of these carriers are not independently owned and operated, this figure necessarily overstates the actual number of non-radiotelephone companies that would qualify as "small business concerns" under the SBA definition. Moreover, although the rules adopted herein apply only to IXC's, this figure includes entities other than IXC's. Consequently, the Commission estimates using this methodology that there are fewer than 2,295 small entity telephone communications companies (other than radiotelephone companies) that may be affected by the proposed decisions and rules and seeks comment on this conclusion.

**10. Non-LEC wireline carriers.** Next the Commission estimates the number of non-LEC wireline carriers, including IXC's, CAPs, OSPs, Pay Telephone Operators, and resellers that may be affected by these rules. Because neither the Commission nor the SBA has developed definitions for small entities specifically applicable to these wireline service types, the closest applicable definition under the SBA rules for all these service types is for telephone communications companies other than radiotelephone (wireless) companies. However, the TRS data provides an alternative source of information regarding the number of IXC's, CAPs, OSPs, Pay Telephone Operators, and resellers nationwide. According to the Commission's most recent data: 130 companies reported that they are engaged in the provision of interexchange services; 57 companies reported that they are engaged in the provision of competitive access services; 25 companies reported that they are engaged in the provision of operator services; 271 companies reported that they are engaged in the provision of pay telephone services; and 260 companies reported that they are engaged in the resale of telephone services and 30 reported being "other" toll carriers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of IXC's, CAPs, OSPs, Pay Telephone Operators, and resellers that would qualify as small business concerns under SBA's definition. Firms filing *TRS Worksheets* are asked to select a single category that best describes their operation. As a result, some long distance carriers describe themselves as resellers, some

as OSPs, some as "other," and some simply as IXC's. Consequently, the Commission estimates that there are fewer than 130 small entity IXC's; 57 small entity CAPs; 25 small entity OSPs; 271 small entity pay telephone service providers; and 260 small entity providers of resale telephone service; and 30 "other" toll carriers that might be affected by the rules proposed in this Order on Reconsideration.

**11. Radiotelephone (Wireless) Carriers.** The SBA has developed a definition of small entities for Wireless (Radiotelephone) Carriers. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to the SBA definition, a small business radiotelephone company is one employing fewer than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, the Commission is unable to estimate with greater precision the number of Radiotelephone Carriers and service providers that would qualify as small business concerns under SBA's definition. The Commission is also unable to estimate how many of these entities are IXC's. Consequently, the Commission estimates that there are fewer than 1,164 small entity radiotelephone companies that might be affected by the rules proposed in this Order on Reconsideration.

**12. Cellular and Mobile Service Carriers.** In an effort to further refine its calculation of the number of radiotelephone companies affected by the rules adopted herein, the Commission considers the categories of radiotelephone carriers, Cellular Service Carriers and Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to Cellular Service Carriers and to Mobile Service Carriers. The closest applicable definition under SBA rules for both services is for telephone companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of Cellular Service Carriers and Mobile Service Carriers nationwide of which the Commission is aware appears to be the data that it collects annually in connection with the TRS. According to the Commission's most recent data, 792

companies reported that they are engaged in the provision of cellular services and 138 companies reported that they are engaged in the provision of mobile services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of Cellular Service Carriers and Mobile Service Carriers that would qualify as small business concerns under SBA's definition. The Commission is also unable to estimate how many of these entities are IXC's. Consequently, the Commission estimates that there are fewer than 792 small entity Cellular Service Carriers and fewer than 138 small entity Mobile Service Carriers that might be affected by the rules proposed in this Order on Reconsideration.

13. *Broadband PCS Licensees.* In an effort to further refine our calculation of the number of radiotelephone companies affected by the rules adopted herein, the Commission considers the category of radiotelephone carriers, Broadband PCS Licensees. The broadband PCS spectrum is divided into six frequency blocks designated A through F. As set forth in 47 CFR 24.720(b), the Commission has defined "small entity" in the auctions for Blocks C and F as a firm that had average gross revenues of less than \$40 million in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. The Commission's definition of a "small entity" in the context of broadband PCS auctions has been approved by SBA. The Commission has auctioned broadband PCS licenses in Blocks A through F. The Commission does not have sufficient data to determine how many small businesses bid successfully for licenses in Blocks A and B. There were 183 winning bidders that qualified as small entities in the Blocks C, D, E, and F auctions. The Commission is unable to estimate how many of these entities are IXC's. Based on this information, the Commission concludes that the number of broadband PCS licensees in Blocks C through F that might be affected by the rules proposed in this Order on Reconsideration includes, at most, the 183 winning bidders that qualified as small entities in the Blocks C through F broadband PCS auctions.

14. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has

defined "small entity" in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than \$15 million in the three previous calendar years. This definition of a "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. The rules adopted in this Order on Reconsideration may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many IXC's provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than \$15 million. The Commission assumes, for purposes of this FRFA, that all of the extended implementation authorizations may be held by IXC's that are small entities, which may be affected by the decisions and rules adopted in this Order on Reconsideration.

15. The Commission completed its auctions for geographic area licenses in the 900 MHz SMR band on April 15, 1996. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. The Commission is unable to estimate how many of these entities are IXC's. Based on this information, the Commission concludes that the number of geographic area SMR licensees that may be affected by the rules adopted in this Order on Reconsideration includes, at most, these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses, or how many of these entities will be IXC's. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, the Commission assumes, for purposes of this FRFA, that all of the licenses may be awarded to IXC's that are small entities which, thus, may be affected by the decisions in this Order on Reconsideration.

iv. Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements

16. The Commission, in this Order on Reconsideration, (1) directs carriers that use LOAs to fully translate their LOAs into the same language(s) as their associated promotional materials, oral descriptions and instructions; (2) modifies § 64.1150(e)(4) of its rules to incorporate the terms "interLATA" and "intraLATA," as well as "interstate" and "intrastate"; and (3) clarifies that IXC's must employ only one of the four options in § 64.1100 to verify subscriber change orders generated by telemarketing. The Commission has determined that compliance with these provisions may require carriers to modify their marketing and advertising materials.

v. Steps Taken To Minimize the Significant Economic Impact of This Memorandum Opinion and Order on Small Entities and Small Incumbent LECs, Including the Significant Alternatives Considered and Rejected

17. After consideration of potential alternatives, the Commission determined that the requirement that carriers translate LOAs into the same language as their associated promotional materials or oral descriptions and instructions may have a significant impact on a substantial number of small businesses as defined by section 601(3) of the RFA. Specifically, small entities may feel some economic impact in additional printing costs due to the new requirement under § 64.1150(g). Nevertheless, the overwhelming majority of commenters supported the Commission's adoption of this rule, without providing specific comment regarding the economic impact to small entities or alternatives to lessen the economic impact. Moreover, because the rules will not take effect for one hundred fifty (150) days, the Commission believes all IXC's, large and small, will have sufficient advance time to revise and print new LOAs, if necessary. By enacting this rule, the Commission is only requiring that IXC's using LOAs ensure that the language of their promotional material matches that which authorizes a change in subscriber service. The Commission believes that even if the economic impact is significant to some small entities, the benefit of protecting non-English speaking consumers from being misled by language that they may not fully understand is consistent with the stated objectives, and thus justifies any increase in printing costs.

18. The Commission determined that the rule incorporating the terms "interLATA and intraLATA" as well as "interstate and intrastate" contained in this Order on Reconsideration will not impose any additional requirements on IXC's. These terms were incorporated only to remove possible confusion or uncertainty as to the scope of our rules as pertaining to all jurisdictions. Likewise, the rule clarifying that IXC's must employ only one verification option will not impose any additional requirements on IXC's. Therefore, adoption of these rules should have little or no economic impact on small entities. Because the Commission concludes that adoption of these rules will cause little or no economic impact on small entities, the Commission has identified no significant alternatives, nor were any offered by parties commenting on the IRFA.

vi. Report to Congress

19. The Commission shall send a copy of this FRFA, along with this Memorandum Opinion and Order on Reconsideration, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA will also be published in the **Federal Register**.

**IV. Conclusion**

20. The Commission reaffirms, with minor modifications, its verification procedures adopted in the *1995 Report and Order*. The Commission's stay of its *1995 Report and Order*, insofar as it extends the PIC-change verification requirements set forth in § 64.1100 of the Commission rules to consumer-initiated or in-bound telemarketing calls, remains in effect.

**V. Ordering Clauses**

21. *It is ordered* that, pursuant to Sections 1, 4, 201–205, 215, 218, 220 and 258 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 215, 218, 220, and 258, the Petitions for Reconsideration of Allnet Communication Services, Inc., AT&T Corporation, Frontier Communications International, Inc., MCI Telecommunications Corporation, National Association of Attorneys General, and Sprint Communications Company Are granted to the extent described herein and Are denied in all other respects.

22. *It is further ordered* that the Petition for Clarification of the Telecommunications Resellers Association is granted to the extent described herein and is denied in all other respects.

23. *It is further ordered* that 47 CFR Part 64 is amended as set forth below.

24. *It is further ordered* that the policies, rules and requirements set forth below in this memorandum opinion and order on reconsideration are effective January 12, 1998 except for section 64.1150 which will become effective upon approval by the Office of Management and Budget. The Commission will publish a document at a later date announcing the effective date.

**List of Subjects in 47 CFR Part 64**

Communications common carriers, Consumer protection, Telecommunications.

Federal Communications Commission.

**William F. Caton,**  
*Acting Secretary.*

**Rule Changes**

47 CFR part 64 is amended as follows:

1. The authority citation for part 64 continues to read as follows:

**Authority:** Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Section 64.1100(a) is revised to read as follows:

**§ 64.1100 Verification of orders for long distance service generated by telemarketing.**

\* \* \* \* \*

(a) The IXC has obtained the customer's written authorization in a form that meets the requirements of § 64.1150;

\* \* \* \* \*

3. Section 64.1150(e)(4) is revised to read as follows:

**§ 64.1150 Letter of agency form and content.**

\* \* \* \* \*

(e) \* \* \*

(4) That the subscriber understands that only one interexchange carrier may be designated as the subscriber's interstate or interLATA primary interexchange carrier for any one telephone number. To the extent that a jurisdiction allows the selection of additional primary interexchange carriers (e.g., for intrastate, intraLATA or international calling), the letter of agency must contain separate statements regarding those choices. Any carrier designated as a primary interexchange carrier must be the carrier directly setting the rates for the subscriber. One interexchange carrier can be both a subscriber's interstate or interLATA

primary interexchange carrier and a subscriber's intrastate or intraLATA primary interexchange carrier; and

\* \* \* \* \*

4. Section 64.1150(g) is revised to read as follows:

**§ 64.1150 Letter of agency form and content.**

\* \* \* \* \*

(g) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 68**

[CC Docket No. 87–124; FCC 97–242]

**Access to Telecommunications Equipment and Services by Persons With Disabilities (Hearing Aid Compatibility)**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action amends Commission rules regarding HAC, which would have required all telephones manufactured or imported for use in the United States after November 1, 1998 to contain a volume control feature. Under the amended rules, this compliance date is extended to January 1, 2000. Furthermore, the Commission has made conforming amendments to its hearing aid compatibility rules so that workplaces, hotels and motels, and confined settings (e.g. hospitals and nursing homes) will not be required to ensure that new or replacement telephones contain a volume control feature until January 1, 2000, parallel with the manufacturing requirements. This action was taken in response to a petition for reconsideration filed by the Consumer Electronics Manufacturers Association (CEMA).

**EFFECTIVE DATE:** September 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Andy Firth, Attorney, 202/418–1898, Fax 202/418–2345, TTY 202/418–2224, afirth@fcc.gov, Network Services Division, Common Carrier Bureau.

**SUPPLEMENTARY INFORMATION:** This summarizes the Commission's Order on