

Information Center, *shall send* a copy of this *Memorandum Opinion and Order on Reconsideration*, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

Subscriber List Information, Record Keeping, and Directory Publishers.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Final Rules

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

- 1. The authority citation for part 64 is revised to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254 (k) unless otherwise noted.

- 2. Section 64.2341 is amended by revising paragraph (c) and adding paragraphs (d) and (e) to read as follows:

§ 64.2341 Record keeping.

* * * * *

(c) Except to the extent specified in paragraph (d), a carrier shall make the contracts and records described in paragraphs (a) and (b) available, upon request, to the Commission and to any directory publisher that requests those contracts and records for the purpose of publishing a directory.

(d) A carrier need not disclose to a directory publisher pursuant to paragraph (c) portions of requested contracts that are wholly unrelated to the rates, terms, or conditions under which the carrier provides subscriber list information to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

(e) A carrier may subject its disclosure of subscriber list information contracts or records to a directory publisher pursuant to paragraph (c) to a confidentiality agreement that limits access to and use of the information to the purpose of determining the rates, terms, and conditions under which the carrier provides subscriber list information to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

[FR Doc. 04–23094 Filed 10–27–04; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02–278, FCC 04–223]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Final rule; delay of effective date.

SUMMARY: In this document, the Commission extends through June 30, 2005, the effective date of the Commission's determination that an established business relationship will no longer be sufficient to show that an individual or business has given express permission to receive unsolicited facsimile advertisements and the rule requiring that the sender of a facsimile advertisement first obtain the recipient's express permission in writing.

DATES: The effective date of the rule amending 47 CFR part 64, § 64.1200(a)(3)(i) published at 68 FR 44144, July 25, 2003, is delayed until July 1, 2005.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Erica H. McMahon at 202–418–2512, Consumer & Governmental Affairs Bureau, Federal Communications Commission.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* in CG Docket No. 02–278, FCC 04–223, adopted on September 15, 2004 and released on October 1, 2004. The full text of this document is available at the Commission's Web site <http://www.fcc.gov> on the Electronic Comment Filing System and for public inspection and copying during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of the decision may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc., at its Web site: <http://www.bcpweb.com> or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or

(202) 418–0432 (TTY). The *Order* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb>.

Synopsis

On July 3, 2003, the Commission revised the unsolicited facsimile advertising requirements under the Telephone Consumer Protection Act of 1991 (TCPA). On August 18, 2003, the Commission issued an *Order on Reconsideration* (68 FR 50978, August 25, 2003) that established an effective date of January 1, 2005. We now extend, through June 30, 2005, the effective date of the determination that an established business relationship will no longer be sufficient to show that an individual or business has given express permission to receive unsolicited facsimile advertisements, as well as the amended unsolicited facsimile provisions at 47 CFR 64.1200(a)(3)(i). Section 64.1200(a)(3)(i), as amended, requires the sender of a facsimile advertisement to first obtain from the recipient a signed, written statement that includes the facsimile number to which any advertisements may be sent and clearly indicates the recipient's consent to receive such facsimile advertisements from the sender. In light of recent action by the United States House of Representatives to amend the TCPA and similar proposed legislation in the United States Senate, we believe the public interest would best be served by delaying the effective date of the written consent requirement for six months to allow Congress to act. Should Congress not act in this regard, a further extension will provide the Commission requisite time to address the petitions for reconsideration filed on these issues. For these same reasons, through June 30, 2005, the 18-month limitation on the duration of the established business relationship based on purchases and transactions and the three-month limitation on applications and inquiries will not apply to the transmission of facsimile advertisements.

We emphasize that our existing TCPA rules prohibiting the transmission of unsolicited advertisements to a telephone facsimile machine will remain in effect during the pendency of this extension. Under these rules, those transmitting facsimile advertisements must have an established business relationship or prior express permission from the facsimile recipient to comply with our rules.

Ordering Clauses

Pursuant to sections 1–4, 227, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154,

227, and 303(r), the *Order* in CG Docket No. 02-278 is adopted and that the *Report and Order*, FCC 03-153, is modified as set forth herein.

The Fax Ban Coalition's Petition for Extension of Delay is granted to the extent discussed herein.

The effective date for the Commission's determination that an established business relationship will no longer be sufficient to show that an individual or business has given their express permission to receive unsolicited facsimile advertisements and the requirement that the sender of a facsimile advertisement first obtain the recipient's express permission in writing, as codified at 47 CFR 64.1200(a)(3)(i), is July 1, 2005, and that the *Order* is effective October 28, 2004.

The Commission will not send a copy of the *Order* pursuant to Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the adopted rules are rules of particular applicability.

List of Subjects in 47 CFR Part 64

Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04-24125 Filed 10-27-04; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04-3236, MM Docket No. 01-334, RM-10343]

Digital Television Broadcast Service; Green Bay, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of CBS Broadcasting Inc., substitutes DTV channel 39c for DTV channel 56 at Green Bay, Wisconsin. See 66 FR 66867, December 27, 2001. DTV channel 39c can be allotted to Green Bay, Wisconsin, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 44-20-01 N. and 87-58-56 W. with a power of 1000, HAAT of 364 meters and with a DTV service population of 997 thousand. Since the community of Green Bay is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government was obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective December 6, 2004.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-334, adopted October 12, 2004, and released October 20, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 301-816-2820, facsimile 301-816-0169, or via e-mail joshir@erols.com.

This document does not contain [new or modified] information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this [Report & Order etc.] in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

■ 2. Section 73.622(b), the Table of Digital Television Allotments under Wisconsin, is amended by removing DTV channel 56 and adding DTV channel 39c at Green Bay.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 04-24123 Filed 10-27-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 221 and 235

[Docket No. FRA-2004-17529; Notice No. 2]

RIN 2130-AB61

Inflation Adjustment of the Maximum and Minimum Civil Monetary Penalties for Violation of a Railroad Safety Law or Regulation; Corrections

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule; correcting amendments.

SUMMARY: On May 28, 2004, FRA published a final rule, which increased the minimum and aggravated maximum civil monetary penalties it applies when assessing a civil penalty for a violation of railroad safety statutes and regulations under its authority. In preparing that final rule for publication, six minor typographical errors were made. These amendments correct the typographical errors published in the final rule.

DATES: The corrections to the final rule are effective on October 28, 2004.

FOR FURTHER INFORMATION CONTACT:

Melissa L. Porter, Trial Attorney, Federal Railroad Administration, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20003, (202) 493-6034, Melissa.Porter@fra.dot.gov.

SUPPLEMENTARY INFORMATION: The errors included in the final rule published on May 28, 2004 (69 FR 30591) consisted of twice listing incorrect appendices to be amended (appendix A to part 221 instead of appendix C; and appendix A to part 241 instead of appendix B), inserting the incorrect monetary amount in one amendment (to part 235), and listing the incorrect section to be amended in (§ 231.11 instead of § 233.11) another amendment. All of the typographical errors were obvious from their context. FRA is correcting these minor errors so that the final rule clearly conforms to FRA's intent.

List of Subjects in 49 CFR Parts 221 and 235

Railroad safety, Penalties.

The Final Rule

■ In accordance with the foregoing, 49 CFR parts 221, 233, 235, and 241, chapter II, subtitle B of title 49, Code of Federal Regulations are corrected by making the following correcting amendments: