



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News media information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
TTY 202 / 418-2555

DA 01-640

March 9, 2001

**Macro International Requests a Declaratory Ruling on
Interpretation of 47 C.F.R. § 64.1601(d)(2)**

CC Docket No. 91-281

Public Comment Invited

Comments due: April 9, 2001

Reply Comments due: April 24, 2001

On September 12, 2000, Macro International, Inc. (Macro) filed a petition for declaratory ruling regarding section 64.1601(d)(2) of the Commission's rules, 47 CFR 64.1601(d)(2).

Macro's request for declaratory ruling pertains to the March 25, 1997 *Third Report and Order* in CC Docket No. 91-281 that established new caller ID rules governing local exchange carriers (LECs). In pertinent part these rules require that LECs using SS7 are required to transmit the calling party number (CPN) associated with an interstate call to interconnecting carriers. These rules also require such interconnecting carriers to deploy blocking and unblocking capability for the transmission of CPN. The Commission exempted from this requirements LECs for whom blocking and unblocking is technologically infeasible, *i.e.*, LECs using SS7 but not equipped with CLASS TM software or alternative blocking or unblocking capabilities, and the rules further prohibited such carriers from passing CPN.

Lines owned by interexchange carriers (IXCs) are often part of the transmission sequence of telephone call routing. Since some IXCs may have the same technological limitations preventing the transmission of CPN over their lines as do some LECs, argues Macro, then IXCs not equipped with CLASS TM software or alternative blocking or unblocking capabilities should also be exempted under 47 CFR 64.1601(d)(2). Without this exemption, the originating carrier would be in apparent violation of section 64.1601(d)(2) if the call were to be transmitted over an IXC without these capabilities.

Macro also points out that the specification of only LECs in section 64.1601 was not proposed in the December 1995 *Order and Fourth Notice of Proposed Rulemaking* in CC Docket No. 91-281. There, the Commission proposed that "carriers" that lack blocking and unblocking capabilities should be

exempted from the Commission's caller ID rules. Accordingly, Macro requests that the Commission declare that the Commission's exemption for LECs using SS7 but not equipped with CLASS TM software or alternative blocking or unblocking capabilities, and the prohibition for such carriers from passing CPN, also applies to IXC.

To the extent that any party believes that a declaratory ruling is not the appropriate relief, but rather that a waiver of our rules is required, please note that the Commission will not waive any provision of its rules unless good cause is shown.¹ Under the relevant case law, the applicant has the burden of showing good cause for a waiver: "[a]n applicant [for a waiver] faces a high hurdle even at the starting gate."² Nevertheless, an agency must take a "hard look" at applications for waiver³ and must consider all relevant factors.⁴ An agency must adhere strictly to its rules unless a party can show "reasons why in the public interest the rule should be waived."⁵ Finally, "[t]he agency must explain why deviation better serves the public interest and articulate the nature of the special circumstances to prevent discriminatory application and to put future parties on notice as to its operation."⁶

Comments responding to this public notice must be filed with the Commission by April 9, 2001, and reply comments by April 24, 2001. Such comments should reference CC Docket No. 91-281. They should include specific information about the impact of the proposed declaratory ruling and the impact of any proposed waiver.

Comments should be sent to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-A325, Washington, DC 20554. Two copies of the comments should also be sent to the Network Services Division, 445 12th Street, SW, Room 6-A207, Washington, DC 20554. The petition and public comments will be available for review and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554, (202) 418-0270.

For further information, contact Susan Magnotti of the Network Services Division, Common Carrier Bureau at (202) 418-0871 (voice), (202) 418-0484 (TTY), or by email at smagnott@fcc.gov.

¹ 47 C.F.R. § 1.3.

² WAIT Radio v. FCC, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

³ Id.

⁴ Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 416 (1971).

⁵ FPC v. Texaco Inc., 377 U.S. 33, 39 (1964).

⁶ Northeast Cellular Telephone Company, L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).