



Federal Communications Commission
Washington, D.C. 20554

June 6, 2008

DA 08-1323

Small Entity Compliance Guide

In the Matter of Amendment of Parts 1 and 63 of the Commission's Rules Regarding Section 214 International Authorizations

Report and Order
IB Docket No. 04-47, FCC 07-118

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the above-referenced FCC rules. This Guide is not intended to replace the rules and final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may revise this Guide without public notice to clarify or update the contents. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

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Background and Objectives of the Proceeding

- On June 22, 2007, the Commission released a Report and Order (Order), as part of the Commission's ongoing review of its rules, making several changes to its international section 214 authorization process and the rules relating to the provision of U.S.-international telecommunications services. The Order revises the procedures for the discontinuance of international services to reflect changes in the international telecommunications service market by reducing the international discontinuance for non-dominant carriers notice period from 60 days to 30 days. The Order also amends the Commission's rules regarding the provision of international roaming service by U.S. Commercial Mobile Radio Service (CMRS) carriers. Finally, the Order amends the Commission's cable landing license application requirements to include information regarding an applicant's compliance with the Coastal Zone Management Act of 1972 (CZMA). The Order provides a number of clarifications regarding the provision of international service. The Order clarifies the rule regarding the provision of services by a commonly-controlled subsidiary of an international section 214 authorization holder. In addition, the Order clarifies the Commission's rules regarding changes in *de jure* control of an international section 214 authorization holder and the treatment of asset acquisitions. The Order deferred making changes to the 214 authorization process for CMRS carriers until the Commission has a more complete record.

Regulations and Policies the Commission Amended

- **Discontinuance of International Service:** The Commission shortened the notification period under Section 63.19 for discontinuance, reduction, or impairment of international service by a U.S. non-dominant international carrier from 60 days to 30 days. Such action conforms the rules regarding discontinuance of international service by non-dominant carriers with the minimum notification period generally allowed before a non-dominant carrier can receive authority to discontinue domestic service. This amendment now requires carriers to file a copy of the notification with the Commission at the same time such notification is sent to all affected customers.
- **International Roaming:** International roaming allows the customers of U.S.-licensed CMRS carriers to use the networks of foreign-licensed wireless carriers to make calls while traveling in foreign countries. The Commission modified sections 63.18(e)(2) and 63.23 of its rules to permit all resale carriers to resell in-bound international services from either a U.S. carrier or a foreign carrier.
- The Order specifically amends Section 63.18(e)(2) of the rules to permit explicitly all U.S.-authorized resale carriers to resell U.S.-inbound international services. The rule amendment in the Order under Section 63.23(c), also applies to carriers providing service through a global resale authorization as well as those providing service through a limited global or individual service authorization. The rule change clarifies that calls originating in a foreign country that terminate in the United States, made using either a calling card issued by a U.S. carrier, or by a customer of a U.S. CMRS carrier under a roaming agreement with a foreign carrier, are included in the carrier's global resale authority.

- **Modification of Cable Landing License Rules:** The Commission amended its rules under 1.767 to assure compliance with the Coastal Zone Management Act (CZMA).
 - The CZMA authorizes states to develop coastal management programs, subject to federal approval through NOAA. States with federally approved programs are entitled to review for consistency with those programs any “required federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state.” 16 U.S.C. § 1456(c)(3)(A). The Commission amends the applicability of the CZMA to the Commission’s cable landing license activities. Specifically, the rules now specify the following:
 - An application for a cable landing license to construct a submarine cable system or to modify the construction of a previously approved submarine cable system is subject the consistency review requirements set forth in section 1456(c)(3)(A) of the CZMA;
 - The Order adds a note to section 1.767 of the rules, 47 C.F.R. § 1.767, to clarify that any consistency certifications required by section 1456(c)(3)(A) of the CZMA must be included in cable landing license applications filed with the Commission; and
 - Construction may not commence until all coastal states have concurred or may be presumed to have concurred with any required certifications included in the cable landing application.

Regulations and Policies the Commission Clarified

- **Commonly-controlled Subsidiaries:** The Commission declined to modify Section 63.21(h) to allow a commonly-controlled subsidiary to provide service pursuant to its parent’s international section 214 authorization.
 - The Commission found the differences in ownership between a parent and a commonly-controlled subsidiary may raise issues, specifically national security and or foreign policy issues, that could require individualized scrutiny. Consequently, the Order retains the Commission’s current rule that allows only wholly-owned subsidiaries to provide service pursuant to their parents’ international section 214 authorization.
- **Transfer of Ownership:** The Commission clarified that an ownership change to less than 50 percent ownership should be treated as a transfer of control under Commission rules. Under Section 63.24(f), carriers may submit post-transaction notifications for non-substantial, or *pro forma* transfers or assignments.
- **Asset Acquisition:** The Commission clarified that, consistent with asset acquisition of domestic wireline assets, international carriers are required to file an assignment

application with the Commission when carriers undertake to sell their customer base, or portions thereof, to another carrier rather than a discontinuance.

Impact on Small Business

Modifications of the rules will have no significant adverse impact on small entities.

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- Report and Order, FCC 07-118, 22 FCC Rcd 11398 (2007).
- http://fjallfoss.fcc.gov/edocs_public/attachmatch/FCC-07-118A1.pdf