

**Federal Communications Commission**

---

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Rules and Regulations Implementing the	)	
Truth in Caller ID Act of 2009	)	WC Docket No. 11-39

**ERRATUM**

**Released: March 22, 2011**

By the Chief, Wireline Competition Bureau:

On March 9, 2011, the Commission released a Notice of Proposed Rulemaking (NPRM), FCC 11-41, in the above captioned proceeding. This Erratum amends the NPRM as indicated below:

1. Paragraph 34 of the NPRM is corrected to read as follows:

“34. *Miscellaneous*. We also take this opportunity to revise the undesignated paragraph in section 1.80(a) to address issues not directly related to implementation of the Truth in Caller ID Act and to redesignate that undesignated text as “Note to paragraph 1.80(a).” With respect to the proposed revisions, first, in order to ensure that the language in the rule encompasses the language used in all of the statutory provisions, we propose amending the rule to say that the forfeiture amounts set forth in section 1.80(b) are inapplicable “to conduct which is subject to a forfeiture penalty *or fine*” under the various statutory provisions listed. (Emphasis added.) Second, we propose changing the references to sections 362(a) and 362(b) to sections 364(a) and 364(b) in order that the statutory provision references match those used in the Communications Act, rather than the U.S. Code. (Section 364 of the Communications Act is codified as 47 U.S.C. § 362.) Third, we propose deleting section 503(b) from the list of statutory provisions to which the forfeiture amounts in section 1.80(b) do not apply, because the inclusion was error; section 1.80(b) implements the forfeiture amounts of section 503(b), and so the penalties set forth in section 1.80(b) apply to forfeiture under section 503(b). We seek comment on these proposed changes to the Commission’s forfeiture rules.”

2. The NPRM’s Appendix A is replaced with the attached new Appendix A. The new Appendix A contains the proposed rules in the form the Commission is seeking to have published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Sharon Gillett  
Chief, Wireline Competition Bureau

**Appendix A**

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1 and 64 as follows:

**PART I – PRACTICE AND PROCEDURE**

1. The authority citation for part 1, of Title 47 of the Code of Federal Regulation is revised to read as follows:

Authority: 15 U.S.C. 79 *et seq*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), and 309.

§ 1.80 [Amended]

2. Amend section 1.80 as follows:

- a. Designate the undesignated paragraph following (a)(4) as “Note to Paragraph (a)” and revise it;
- b. Redesignate paragraphs (a)(4), (b)(3), (b)(4), (b)(5), and (c)(3), as paragraphs (a)(5), (b)(4), (b)(5), (b)(6), and (c)(4), respectively;
- c. Redesignate “Note to Paragraph (b)(4)” as “Note to paragraph (b)(5)”;
- d. Add new paragraphs (a)(4), (b)(3), and (c)(3);
- e. Revise redesignated paragraph (b)(4); and
- f. Revise paragraph (d).

**§ 1.80 Forfeiture proceedings.**

(a) \* \* \*

(4) Violated any provision of section 227(e) of the Communications Act or of the rules issued by the Commission under section 227(e) of the Act; or

Note to paragraph (a):

A forfeiture penalty assessed under this section is in addition to any other penalty provided for by the Communications Act, except that the penalties provided for in paragraphs (b)(1), (b)(2), (b)(3), (b)(4) of this section shall not apply to conduct which is subject to a forfeiture penalty or fine under sections 202(c), 203(e), 205(b), 214(d), 219(b), 220(d), 223(b), 364(a), 364(b), 386(a), 386(b), 506, and 634 of the Communications Act. The remaining provisions of this section are applicable to such conduct.

(b) \* \* \*

(3) Any person determined to have violated section 227(e) of the Communications Act or of the rules issued by the Commission under section 227(e) of the Communications Act shall be liable to the United States for a forfeiture penalty of not more than \$10,000 for each violation or three times that amount for each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,000,000 for any single act or failure to act. Such penalty shall be in addition to any other forfeiture penalty provided for by the Communications Act.

(4) In any case not covered by paragraphs (b)(1), (b)(2) or (b)(3) of this section, the amount of any forfeiture penalty determined under this section shall not exceed \$16,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$112,500 for any single act or failure to act described in paragraph (a) of this section.

\* \* \* \* \*

(c) \* \* \*

(3) In the case of a forfeiture imposed under section 227(e), no forfeiture will be imposed if the violation occurred more than 2 years prior to the date on which the appropriate notice is issued.

(d) *Preliminary procedure in some cases; citations.* Except for a forfeiture imposed under subsection 227(e)(5) of the Act, no forfeiture penalty shall be imposed upon any person under this section of the Act if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, and if such person is not an applicant for a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the issuance of the appropriate notice, such person:

(1) Is sent a citation reciting the violation charged;

(2) Is given a reasonable opportunity (usually 30 days) to request a personal interview with a Commission official, at the field office which is nearest to such person's place of residence; and

(3) Subsequently engages in conduct of the type described in the citation.

However, a forfeiture penalty may be imposed, if such person is engaged in (and the violation relates to) activities for which a license, permit, certificate, or other authorization is required or if such person is a cable television operator, or in the case of violations of section 303(q), if the person involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by section 303(q) from the Commission or the permittee or licensee who uses that tower. Paragraph (c) of this section does not limit the issuance of citations. When the requirements of this paragraph have been satisfied with respect to a particular violation by a particular person, a forfeiture penalty may be imposed upon such person for conduct of the type described in the citation without issuance of an additional citation.

\* \* \* \* \*

## **PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

3. The authority citation for Part 64 is revised to read as follows:

Authority: 47 U.S.C. 154, 254(k), 227; secs. 403(b)(2)(B), (c), Pub. L. 104-104, 100 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 207, 228, and 254(k) unless otherwise noted.

4. Section 64.1600 is amended by redesignating paragraphs (c), (d), (e) and (f) as paragraphs (e), (f), (i) and (j) respectively and by adding new paragraphs (c), (d), (g), and (h) to read as follows:

**§ 64.1600 Definitions**

\* \* \* \* \*

(c) *Caller identification information.* The term “Caller identification information” means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or interconnected VoIP service.

(d) *Caller identification service.* The term “Caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or interconnected VoIP service. Such term includes automatic number identification services.

\* \* \* \* \*

(g) *Information regarding the origination.* The term “Information regarding the origination” means any:

- (1) Telephone number;
- (2) Portion of a telephone number, such as an area code;
- (3) Name;
- (4) Location information; or
- (5) Other information regarding the source or apparent source of a telephone call

(h) *Interconnected VoIP service.* The term “Interconnected VoIP service” has the same meaning given the term “Interconnected VoIP service” in 47 CFR 9.3 as it currently exists or may hereafter be amended.

\* \* \* \* \*

5. Section 64.1604 is redesignated as section 64.1605, and a new section 64.1604 is added to read as follows:

**§ 64.1604 Prohibition on transmission of inaccurate or misleading caller identification information.**

(a) No person or entity in the United States, shall, with the intent to defraud, cause harm, or wrongfully obtain anything of value, knowingly cause, directly or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information.

(b) *Exemptions.* Paragraph (a) of this section shall not apply to:

- (1) Lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States; or

(2) Activity engaged in pursuant to a court order that specifically authorizes the use of caller identification manipulation.

- (c) A person or entity that blocks or seeks to block a caller identification service from transmitting or displaying that person or entity's own caller identification information shall not be liable for violating the prohibition in paragraph (a) of this section. This subsection does not relieve any person or entity that engages in telemarketing, as defined in § 64.1200(f)(10) of the obligation to transmit caller identification information under § 64.1601(e).