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**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Third Order on Reconsideration and Order on Clarification* in CC Docket No. 96-128, FCC 01-344, adopted and released on November 21, 2001. The full text of the item is available for inspection and copying during the hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554, or copies may be purchased from the Commission's duplicating contractor, Qualex International, 445 12th Street, SW., Suite CY-B402, Washington, DC 20554, phone (202) 863-2893. This Order contains no new or modified information collection subject to the Paperwork Reduction Act of 1995, Public Law 104-13.

### Synopsis of the Third Order on Reconsideration and Order on Clarification

To implement Section 276 of the Telecommunications Act of 1996, the Commission has adopted several rules that define the relationship between PSPs and carriers in the call path in order to ensure that PSPs are adequately compensated for calls placed from payphones. In the *First Payphone Order*, 61 FR 52309, October 7, 1996, the Commission concluded that the interexchange carrier (IXC), as the primary beneficiary of payphone calls, should compensate the PSP. The Commission also recognized that a reseller lacking its own facilities does not have the ability to track calls, and that the facilities-based carrier should therefore pay compensation to the PSP. A requirement to track, or arrange for tracking of, compensable calls was also established for the underlying IXC, and the IXC was permitted to recover the cost of such tracking from the reseller. In the *Payphone Order on Reconsideration*, 61 FR 65341, December 12, 1996, the Commission modified its rules to provide that switch-based resellers (SBRs) are responsible for paying compensation directly to PSPs. In the *Coding Digit Waiver Order*, 63 FR 26497, May 13, 1998, the Common Carrier Bureau responded to PSP complaints that IXCs refused to identify SBRs by clarifying that when SBRs identified themselves to the first facilities-based IXC as responsible for paying compensation, the IXC was obligated to provide this information to the PSP.

On April 5, 2001, the Commission released the *Second Order on Reconsideration*, 66 FR 21105, April 27,

2001, which modified the payphone compensation rules. The modified rules provided that the first facilities-based IXC to which a LEC routes a coinless payphone call must (1) compensate the PSP for the completed call; (2) track or arrange for tracking of all compensable calls; and (3) send to the PSP call completion information to enable the PSP to verify the accuracy of compensation it receives for coinless, compensable calls and/or to bill the underlying facilities-based carrier. The first IXC may then seek reimbursement from the switchless or switch-based reseller ultimately responsible for the compensation.

In this *Third Order on Reconsideration and Order on Clarification*, we decline to modify the rules as established in the *Second Order on Reconsideration*. We also reaffirm that, for purposes of payphone compensation, only calls that are answered by the called party are "completed" and thus compensable. Further, we clarify that the Commission supports the preservation and establishment of direct relationships and agreements between PSPs and SBRs for tracking and payment of payphone compensation, and that the liability of the first facilities-based IXC is limited to the extent that SBRs enter into such direct relationships. We also reiterate that the Commission did not, by revising the payphone compensation rules, intend to nullify any current or future contractual arrangements. Finally, we clarify that carriers are only required to report to PSPs calls that are completed, and thus compensable.

### Ordering Clause

Pursuant to the authority contained in Sections 1, 4(i), 4(j), and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 276, the Bulletins Petition for Clarification is denied to the extent described herein; WorldCom, Inc. Petition for Declaratory Ruling and Petition for Reconsideration is granted in part and denied in part to the extent described herein; AT&T Petition for Clarification and/or Reconsideration is denied to the extent described herein; and Global Crossing Telecommunications, Inc. Petition for Reconsideration and Clarification is denied, to the extent described herein.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 02-1810 Filed 1-24-02; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 98-203; FCC 01-306]

RIN 4213

### The Ancillary or Supplementary Use of Digital Television Capacity by Noncommercial Licensees

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** This document announces the effective date of the Commission's amended rules to require that noncommercial educational ("NCE") television licensees provide a nonprofit, noncommercial educational service. We hope that this clarifies the manner in which NCE licensees may use their excess DTV capacity for remunerative purposes.

**DATES:** Sections 73.621(i); 73.624(g) introductory text and (g)(2)(ii); 73.642(a), (b) and (e); and 73.644(a) became effective on December 26, 2001. Section 73.624(g)(2)(i) is not yet effective. The Commission will release a document in the **Federal Register** announcing the effective date of this section.

**FOR FURTHER INFORMATION CONTACT:** Jane Gross, Policy and Rules Division, Mass Media Bureau (202) 418-2130, or [jgross@fcc.gov](mailto:jgross@fcc.gov).

**SUPPLEMENTARY INFORMATION:** 1. On October 17, 2001, the Commission released Report & Order ("*R&O*") clarifying the manner in which noncommercial educational ("NCE") television licensees may use their excess digital television ("DTV") capacity for remunerative purposes. In the Matter of Ancillary or Supplementary Use of Digital Television Capacity by Noncommercial Licensees, MM Docket No. 98-203, 66 FR 58973 (November 26, 2001). Among other things, the Commission amended § 73.621 of its rules to apply to the entire digital bitstream, including ancillary or supplementary services, thereby requiring NCE licensees to use their digital capacity primarily for a noncommercial, nonprofit, educational broadcast service. The Commission also amended §§ 73.642 (a), (b), (e) and § 73.644(a) of its rules to clarify that NCE licenses may offer subscription services on their excess digital capacity. When it amended these rules, the Commission ordered that the amended rules would "be effective the later of

either thirty days after publication in the **Federal Register**, or upon receipt by Congress of a report in compliance with the Contract with America Advancement Act of 1996, Public Law 104-121” (summary of *R&O* paragraph 49).

2. Under current General Accounting Office (“GAO”) procedures, submission to the GAO or publication in the **Federal Register** is sufficient to satisfy the requirements of the Congressional Review Act (formerly known as the Contract with America Advancement Act). The amendments to §§ 73.621, 73.642 and 73.644 of the Commission’s rules were submitted to the GAO and to Congress on November 26, 2001, the same day that they were published in the **Federal Register**. Thus, pursuant to the Administrative Procedure Act, the amended §§ 73.621, 73.642 and 73.644 of the Commission’s rules will be effective on December 26, 2001, thirty days after publication in the **Federal Register**.

3. Finally, in the same proceeding the Commission amended §§ 73.624(g)(1), (g)(2)(i), and (g)(2)(ii) of its rules to apply to NCE licensees the program for assessing and collecting fees upon feeable ancillary or supplementary services provided on their DTV capacity that it had previously established for commercial licensees, as required by the Telecommunications Act of 1996 (“1996 Act”). Public Law 104-104, 110 Stat. 56 section 201 (1996), codified at 47 U.S.C. 336. In addition, NCE licensees will be required to maintain documentation sufficient to show, at renewal time and in response to any complaint, compliance with the requirement to use their entire bitstream primarily for nonprofit, noncommercial, educational broadcast services on a weekly basis (summary of *R&O* paragraph 16). These requirements were analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Thus, implementation of these requirements is subject to approval by the Office of Management and Budget as prescribed by the PRA (summary of *R&O* paragraphs 46, 50 and

66). The Commission will publish a notice in the **Federal Register** when this approval is received.

**List of Subjects in 47 CFR Part 73**

Television.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 011005244-2011-02; I.D. No. 092401D]

**RIN 0648-AP08**

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Foreign Fishing and Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 2002 Specifications and Foreign Fishing Restrictions**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; specifications for 2002.

**SUMMARY:** NMFS announces final initial specifications for the 2002 fishing year for Atlantic mackerel, squid, and butterfish (MSB); including an in-season adjustment provision for the 2002 mackerel joint venture processing (JVP) annual specification. This action also specifies a method for carrying over *Loligo* squid Quarter I underages into Quarter III. The intent of this final rule is to promote the development and conservation of the MSB resource.

**DATES:** This rule is effective January 25, 2002. The quotas in Tables 1 and 2 for *Loligo* and *Illex* squid, Atlantic mackerel, and butterfish are effective January 25, 2002, through December 31, 2002.

**ADDRESSES:** Copies of supporting documents, including the Environmental Assessment (EA), Regulatory Impact Review (RIR), Final Regulatory Flexibility Analysis (FRFA), and the Essential Fish Habitat Assessment, are available from Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/FRFA is accessible via the Internet at <http://www.nero.nmfs.gov>.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, Fishery Policy Analyst, 978-281-9273, fax 978-281-9135, e-mail [paul.h.jones@noaa.gov](mailto:paul.h.jones@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Regulations implementing the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) require NMFS to publish annual initial specifications for maximum optimum yield (Max OY), allowable biological catch (ABC), initial optimum yield (IOY), domestic annual harvest (DAH), domestic annual processing (DAP), JVP, and total allowable level of foreign fishing (TALFF) for the species managed under the FMP. In addition, regulations implemented under Framework Adjustment 1 to the FMP allow the specification of quota set-asides to be used for research purposes.

Proposed 2002 initial specifications were published on October 23, 2001 (66 FR 53575). Public comments were accepted through November 23, 2001. The final specifications are unchanged from those that were proposed except that they reflect the research set-aside (RSA) allocations that have been recommended to the NOAA Grants Office for funding. A complete discussion of the development of the specifications appears in the preamble to the proposed rule and is not repeated here.

**2002 Final Initial Specifications**

The following table contains the final initial specifications and RSA for the 2002 MSB fisheries as recommended by the Mid-Atlantic Fishery Management Council (Council).

TABLE 1. FINAL INITIAL ANNUAL SPECIFICATIONS AND RSA, IN METRIC TONS (MT), FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 2002

Specifications	Squid		Atlantic Mackerel	Butterfish
	<i>Loligo</i>	<i>Illex</i>		
Max OY	26,000	24,000	N/A <sup>1</sup>	16,000
ABC	17,000	24,000	347,000	7,200
IOY	16,898 <sup>5</sup>	24,000	85,000 <sup>2</sup>	5,900
DAH	16,898 <sup>5</sup>	24,000	85,000 <sup>3</sup>	5,900