

not reasonably comparable. In this case, a state could show that existing basic service is lacking in some way. For example, the state could show that the local calling area size is too small to be considered comparable service, and that toll or extended area service charges should be included to produce a reasonably comparable rate. In addition to explaining why rates within the safe harbor should not be considered reasonably comparable, the state must also show the actions it has taken or is going to take to remedy the discrepancy, prior to requesting additional federal actions to achieve reasonably comparable rates.

d. Rates are above the benchmark and are not reasonably comparable. A state could request federal action based on a showing that current combined federal and state actions are insufficient to produce reasonably comparable rates. If the state asserts that existing federal support and state resources are not sufficient for the state to attain reasonably comparable rates, the state should be required to show that it has already taken all available steps to remedy the situation, but that rates remain above the benchmark. If the state can make this showing, the Commission would consider taking further action to meet the needs of the state in achieving reasonably comparable rates.

30. The Joint Board recommends that states certifying that their rates fall at or below the national rate benchmark and are reasonably comparable should not be required to submit any additional rate information. Any states requesting additional federal action should be afforded great flexibility in making their presentations, but should be required to fully explain the basis for their request. Factors that should be addressed by any such state would include, but not be limited to: Rate analysis and a demonstration why the state contends that rates are not reasonably comparable; any other factors that should be considered in evaluating rates; and a demonstration that the state has taken all reasonably possible steps to develop maximum support from within the state. The requesting state should fully explain how it has used any federal support currently received to help achieve comparable rates and whether the state has implemented a state universal service fund to support rates in high-cost areas of that state. The Joint Board recommends the Commission develop exact procedures to be used in filing and processing requests for further federal actions. In particular, the Joint Board recommends that the Commission establish a time limit for consideration of such state requests, to ensure that requests will be processed and decided expeditiously.

III. Recommending Clause

31. This Federal-State Joint Board pursuant to section 254(a)(1) and section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 254(a)(1) and 410(c), recommends that the Commission adopt the proposals described relating to issues from the *Ninth Report and Order* that were remanded to the Commission by the United States Court of Appeals for the Tenth Circuit.

Federal Communications Commission.

William Scher,

*Assistant Division Chief,
Telecommunications Access Policy Division.*

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02-278; DA 02-3210]

Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On September 18, 2002, the Commission released a document (67 FR 62667, Oct. 8, 2002) seeking comment on whether it should change its rules restricting telemarketing calls and facsimile advertisements. This document grants, in part, and denies, in part, the motion of the American Teleservices Association (ATA) to extend the time to file comments in our TCPA proceeding in CG Docket No. 02-278.

DATES: Comments are due in this proceeding on December 9, 2002, and reply comments are due January 8, 2003.

ADDRESSES: Parties who choose to file comments by paper must file an original and four copies with the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. Comments may also be filed using the Commission's Electronic Filing System, which can be accessed via the Internet at <http://www.fcc.gov/e-file/ecfs.html>.

FOR FURTHER INFORMATION CONTACT: Erica H. McMahon or Richard D. Smith, Consumer & Governmental Affairs Bureau, (202) 418-2512.

SUPPLEMENTARY INFORMATION: On November 13, 2002, the American Teleservices Association (ATA) filed a motion for extension of time to file comments in CG Docket No. 02-278. It is not Commission policy to routinely grant extensions of time. However, we find that a brief extension of time to file comments in this proceeding is in the public interest. We therefore grant, in part, and deny, in part, ATA's request to extend the comment period in this proceeding. In so doing, we note that

many parties seeking to file comments in this proceeding are consumers who may lack familiarity with the Commission's process for filing comments. We believe an extension of time will help to ensure that these parties have ample opportunity to participate. In addition, because the Consumer & Governmental Affairs Bureau (Bureau) responded to ATA's FOIA request on November 14, 2002 by giving ATA 250 redacted complaints, the additional time will afford ATA ample opportunity to review those complaints. Finally, we extend the reply comment period to 30 days following the comment deadline to allow parties a sufficient opportunity to respond to the large number of comments already filed in this proceeding. As of November 19, 2002, over 4,100 comments have been filed in response to the Notice of Proposed Rulemaking (Notice).

We decline, however, to extend the comment period to the full extent requested by ATA. We do not believe that it would be in the public interest to delay this entire proceeding by several months based on the rationale provided in ATA's motion. In particular, we disagree with ATA's contention that ATA must obtain the approximately 11,000 TCPA-related complaints and 1,500 inquiries filed from 2000-2001 prior to commenting on the issues presented in the Notice. The Notice presents, in detail, the specific issues and rules that are under consideration for review in this proceeding. We believe this information allows parties a full and complete opportunity to respond to these issues. In addition, as noted above, the Commission has provided 250 such complaints to ATA in response to its FOIA request. ATA will have an opportunity to analyze those complaints prior to submitting its comments. The Commission intends to work diligently to provide a complete response to ATA's FOIA request. To the extent necessary, ATA will have additional opportunities to supplement its comments through *ex parte* filings.

List of Subjects in 47 CFR Part 64

Telephone.

Federal Communications Commission.

Margaret M. Egler,

Deputy Chief, Consumer & Governmental Affairs Bureau.

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