

(b) *Definition of "In-line interference events."* For purposes of this section, an "in-line interference event" is defined as the interference associated with an occurrence of any physical alignment of space stations of two or more satellite networks with an operating Earth station of one of these networks in such a way that the angular separation between operational links of the two networks is less than 10° as measured at the Earth station.

(c) *Default procedure.* If no agreed coordination exists between two or more satellite networks, then the bands will be divided among the affected satellite networks involved in an in-line interference event in accordance with the following procedure:

(1) Each of n (number of) satellite networks involved in a particular in-line interference event shall select 1/n of the assigned spectrum available in each frequency band for its home base spectrum. The selection order for each satellite network shall be determined by and be in accordance with the date that the first space station in each satellite network is launched and operating;

(2) The affected space station(s) of the respective satellite networks shall only operate in the selected (1/n) spectrum associated with its satellite network, its home base spectrum, for the duration of the in-line interference event;

(3) All affected space station(s) may resume operations throughout the assigned frequency bands once the angular separation between the affected space stations in the in-line interference event is again greater than 10°.

(d) *Coordination procedure.* Any coordination procedure agreed among the affected operating satellite networks, which allows operations of the satellite networks when each network's respective space stations are within the 10 degree avoidance angle associated with an in-line interference event, shall supersede the default procedure of paragraph (c) of this section. Coordination may be effected using information relating to the space stations and the parameters of one or more typical earth stations. All parties are required to coordinate in good faith.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket No. 02-278, FCC 03-230]

### Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission temporarily stays the limitations imposed in § 64.1200(f)(3) on the duration of an "established business relationship" as applied to the sending of unsolicited facsimile advertisements. As a result, the 18-month limitation on the duration of the established business relationship based on purchases and transactions and the three-month limitation on applications and inquiries will not apply to the transmission of facsimile advertisements pending either a decision on this issue on reconsideration or January 1, 2005, whichever is sooner, when the extension of the established business relationship to unsolicited facsimile advertisements is due to expire.

**DATES:** Effective October 14, 2003. The Federal Communications Commission will publish a document in the **Federal Register** when the stay is lifted to remove the note to § 64.1200(f)(3) added by this document.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Erica McMahon or Richard Smith of the Consumer & Governmental Affairs Bureau at (202) 418-2512.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order*, adopted September 26, 2003, and released October 3, 2003. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). To request materials in accessible formats for people with disabilities (Braille, large print,

electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0531 (voice), (202) 418-7365 (TTY).

### Synopsis

In this *Order*, the Commission now temporarily stays, for an interim period, the limitations imposed in § 64.1200(f)(3) on the duration of an "established business relationship" as it applies to the sending of unsolicited facsimile advertisements. During this interim period, the established business relationship, as applied to unsolicited facsimile advertisements, will not expire after 18 months of the recipient's last purchase or transaction or three months after the last application or inquiry. Given that the Commission's adoption of the modified established business relationship definition in the *Report and Order*, FCC 03-153, published at 68 FR 44144 (July 25, 2003), and *Announcement* of effective date published at 68 FR 56764 (October 1, 2003), was limited to its application to telephone solicitations, the Commission believes that good cause exists to stay application of the time limitations imposed on the established business relationship in the context of facsimile advertisements until the Commission conducts a review on reconsideration. The Commission emphasizes that nothing in this *Order* impacts the conclusion in the *Order on Reconsideration*, FCC 03-208; published at 68 FR 50978, August 25, 2003, that an established business relationship constitutes sufficient permission to send a facsimile advertisement until January 1, 2005.

The Commission notes, however, that in the absence of any Commission action on this issue prior to January 1, 2005, the Commission's determination that an established business relationship will no longer be sufficient to show that an individual or business has given express permission to receive unsolicited facsimile advertisements will go into effect as required by the *Order on Reconsideration*.

The actions contained herein have not changed our Final Regulatory Flexibility Analysis (FRFA), which is set forth in the *Report and Order*. Thus, no supplemental FRFA is necessary. In addition, the action contained herein imposes no new or modified reporting and/or recordkeeping requirements or burdens on the public.

### Ordering Clauses

Pursuant to sections 1-4, 227, and 303(r) of the Communications Act Of 1934, as amended, 47 U.S.C. 151-154,

227, and 303 (r); and section 1.429 of the Commission's Rules, 47 CFR 1.429, this *Order* in CG Docket No. 02–278 is adopted as set forth herein.

This *Order* is effective upon publication in the **Federal Register**. In light of the fact that this *Order* imposes no new obligations, the Commission find good cause, pursuant to 5 U.S.C. 553(d), to make this *Order* effective on less than thirty days' notice.

#### List of Subjects in 47 CFR Part 64

Telephone.

■ For the reasons set forth, amend part 64 of title 47 of the Code of Federal Regulations as follows:

#### PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. Section 64.1200 is amended by adding the following note to paragraph (f)(3):

##### § 64.1200 Delivery restrictions.

\* \* \* \* \*

**Note to paragraph (f)(3):** Paragraph 64.1200(f)(3) is stayed as of October 14, 2003, as it applies to the time limitations on facsimile advertisements. The Federal Communications Commission will publish a document in the **Federal Register** when the stay is lifted.

\* \* \* \* \*

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 74 and 78

[ET Docket No. 95–18; DA 03–2838]

#### 2 GHz Suspension

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; suspension order.

**SUMMARY:** This document suspends for 60 days, until November 4, 2003, the expiration date for the initial two-year mandatory negotiation period for Phase 1 of the 2 GHz band relocation plan between Mobile-Satellite Service (MSS) and Broadcast Auxiliary Service (BAS). The mandatory negotiation period will continue to remain in effect for the duration of this suspension or until otherwise modified by Commission action. The Commission retains the option to shorten or lengthen this suspension as circumstances warrant.

**DATES:** Effective September 6, 2003.

**FOR FURTHER INFORMATION CONTACT:** Gary Thayer, Office of Engineering and Technology, (202) 418–2290.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order*, ET Docket No. 95–18, DA 03–2838, adopted September 4, 2003, and released September 5, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: [www.fcc.gov](http://www.fcc.gov). Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

#### Summary of the Order

1. The Order effectively immediately suspends, for 60 days, until November 4, 2003, the expiration date for the initial two-year mandatory negotiation period for Phase 1 of the 2 GHz band relocation plan between Mobile-Satellite Service (MSS) and Broadcast Auxiliary Service (BAS). This mandatory negotiation period was originally adopted in the *Second Report and Order and Second Memorandum Opinion and Order (Second Report and Order)*, 65 FR 48174, August 7, 2000, in this proceeding, and later extended until September 6, 2003, in a subsequent *Order (Suspension Order)*, 67 FR 53755, August 19, 2002. The mandatory negotiation period will continue to remain in effect for the duration of this suspension or until otherwise modified by Commission action. We retain the option to shorten or lengthen this suspension as circumstances warrant.

2. This action only relates to 35 megahertz of spectrum, currently used by BAS licensees, in the 1990–2025 MHz band. In 1997, the Commission reallocated this spectrum, paired with 35 megahertz in the 2165–2200 MHz band used by Fixed Service (FS) licensees, for MSS, effective January 1, 2000. In the *Second Report and Order*, it adopted relocation procedures for incumbent licensees in these bands. The relocation plan was modeled after the Commission's earlier *Emerging Technologies* policies in ET Docket No. 92–9, and requires MSS entrants to provide comparable facilities to BAS and FS incumbents that are relocated prior to specified sunset dates. The BAS relocation plan calls for a two-phase

relocation, each phase beginning with a two-year mandatory negotiation period. In the event that an agreement for relocation is not reached by the end of a particular negotiation period, the MSS licensee(s) have the option of relocating BAS incumbents involuntarily. The initial, two-year mandatory negotiation period for Phase 1 commenced upon **Federal Register** publication of the *Second Report and Order* on September 6, 2000, and was due to expire on September 6, 2002. The *Suspension Order* extended this date by one year, to September 6, 2003.

3. Recently, the Commission adopted decisions that will permit alternative uses and new allocations in portions of the 2 GHz band that had been allocated for MSS. In a *Third Report and Order, Third Notice of Proposed Rulemaking, and Second Memorandum Opinion and Order*, 68 FR 11987, March 13, 2003, in ET Docket No. 00–258, it reallocated a portion of this spectrum in order to provide for new Fixed and Mobile services, including Advanced Wireless Services (AWS). In a *Report and Order and Notice of Proposed Rulemaking* in IB Docket No. 01–185, it permitted MSS licensees to provide ancillary terrestrial component (ATC) operations in the 2 GHz MSS band. The Commission has not yet adopted any modifications to the existing BAS and FS relocation rules as may be necessary in light of these decisions.

4. In the *Suspension Order*, the Commission noted the outstanding issues in the *MSS Flexibility Notice* and *AWS Notice* proceedings relating to use of the 2 GHz MSS band and concluded that it did not appear that it would be able to act on the respective issues prior to the Phase 1 BAS mandatory negotiation deadline of September 6, 2002. It concluded that it was in the public interest to continue the negotiating period until we were able to address these relocation issues. It also found that it was prudent and in the public interest to suspend the expiration of the initial negotiation period for one year under those circumstances, rather than prejudice consideration of the relocation issues presented in the pending proceedings. The Commission further stated that it retained the option to shorten or lengthen this suspension as circumstances warranted.

5. In February of this year, the Commission decided to reallocate portions of the 2 GHz MSS band (in ET Docket No. 00–258) and modify the nature of permissible MSS use of the band (in IB Docket No. 01–185). However, it has not yet addressed the modifications to the BAS and FS relocation plan that may be necessary