

Thus, Executive Order 13175 does not apply to this rule.

#### X. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: April 19, 2004.

**James Jones,**

*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

#### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1251 is added to subpart D to read as follows:

#### § 180.1251 Geraniol; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the biochemical pesticide geraniol in or on all food commodities.

[FR Doc. 04-9577 Filed 4-27-04; 8:45 am]

BILLING CODE 6560-50-S

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 0, 43, 63, and 64

[IB Docket Nos. 02-324 and 96-261, FCC 04-53]

#### In the Matter of International Settlements Policy Reform and International Settlement Rates

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document is a summary of the *Report and Order* adopted by the Commission in this proceeding. The Commission exempted the application of the International Settlements Policy (ISP) from U.S.-international routes that complied with its Benchmarks Policy. The Commission also eliminated its International Simple Resale (ISR) Policy. The Commission maintained the application of its Benchmarks Policy to all U.S.-international routes. The Commission committed to developing and releasing a Notice of Inquiry regarding the nature and effect of high foreign mobile termination rates on U.S. consumers.

**DATES:** Effective May 28, 2004 except for §§ 43.51(d), 43.51(e), 64.1001, and 64.1002(c) which contain information requirements that have not yet been approved by Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections. OMB, the general public, and other Federal agencies are invited to comment on the information collection requirements on or before June 28, 2004.

**ADDRESSES:** In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov), and to Kristy L. LaLonde, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to [Kristy\\_L.\\_LaLonde@omb.eop.gov](mailto:Kristy_L._LaLonde@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** James Ball, Chief, Policy Division, International Bureau, or Alexandra Field, Assistant Chief, Policy Division, International Bureau at (202) 418-1460. For additional information regarding the Paperwork Reduction Act information collections contact Judith B. Herman at 445 12th Street SW., Rm. 1-C804, Washington, DC, 20554 or via internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov); phone (202) 418-0214.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* in IB Docket No. 96-261 & 02-324; FCC 04-53, adopted March 11, 2004 and released on March 30, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The document is also available for download over the

Internet at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-04-53A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-53A1.pdf). The complete text may also be purchased from the Commission's copy contractor, Qualex International, in person at 445 12th Street, SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 863-2893, via facsimile at (202) 863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com). This Report and Order contains new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-3. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collections contained in this proceeding.

#### Summary of Report and Order

On October 10, 2002, the Commission adopted a Notice of Proposed Rulemaking in this proceeding 67 FR 65527 (Oct. 25, 2002) to obtain comment on proposals to modify the application of its International Settlements Policy (ISP), the competitive status of the U.S.-international telecommunications market, the success and effectiveness of Benchmarks Policy, and the issue of foreign mobile termination rates. On March 11, 2004 the Commission adopted a *Report and Order* in this proceeding. In the *Report and Order*, the Commission finds that the U.S.-international telecommunications market has been undergoing changes in recent years. There has been increasing competition on many U.S.-international routes accompanied by lower settlement rates and calling prices to U.S. customers. There also exists the potential for further development of competition as a result of emerging means of routing international traffic that do not involve the traditional carrier settlement process. At the same time, settlement rates on most routes continue to be above cost and there exists the continued potential for anticompetitive conduct and other forms of market failure. On balance, the Commission finds that the changes now unfolding in the U.S.-international market permit us to adopt a more limited application of our regulatory framework accompanied by competitive safeguards to protect U.S. customers against anticompetitive behavior. The Commission stated that, where there is vigorous competition, market forces are causing international termination rates to move toward cost on many routes.

The Commission concludes that reforming our rules to remove our International Settlements Policy (ISP)

from benchmark-compliant routes will give U.S. carriers greater flexibility to negotiate arrangements with foreign carriers. The Commission finds that doing so will encourage market-based arrangements between U.S. and foreign carriers that will further our long-standing policy goals of greater competition in the U.S.-international market and more cost-based rates for U.S. customers. Furthermore, in view of the Commission action removing the ISP from benchmark-compliant routes, this *Report and Order* eliminates the Commission's International Simple Resale (ISR) policy and associated filing requirements. The Commission also retains and clarifies the applicability of certain regulatory safeguards to protect U.S. customers from anticompetitive conduct should it occur in the future. Moreover, it retains its benchmarks policy but plans to subject it to further evaluation as to whether future modifications are warranted. Finally, the Commission is concerned about the increasingly high mobile termination rates that are being charged to U.S. carriers and their effect on U.S. consumers. Accordingly, the Commission decided to continue to evaluate the nature and effect of mobile termination rates on U.S. customers and commits to issuing a Notice of Inquiry seeking detailed information on the issue and what responses are available to the Commission. In addition, the Commission will continue to respond to carrier complaints in this area if foreign mobile termination rates charged to U.S. carriers are not consistent with its general accounting rate principles.

### Procedural Matters

#### *Paperwork Reduction Act*

This *Report and Order* contains modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this *Report and Order* as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due June 28, 2004. PRA comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology.

*OMB Approval Number:* 3060-0454.

*Title:* Regulation of International Accounting Rates.

*Form No.:* N/A.

*Type of Collection:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 5.

*Estimated Time for Response:* 1 hour.

*Frequency of Response:* On Occasion, annual reporting requirement.

*Total Annual Burden:* 150 hours.

*Total Annual Cost:* \$7,000.

*Needs and Uses:* The information will be used by the Federal Communications Commission (FCC) and interested members of the public to monitor the international accounting rates to ensure that the public interest is being served and also to enforce Commission policies and rules.

### Final Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." See 5 U.S.C. 601-612, the RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law No. 104-121, Title II, 110 Stat. 857 (1996). The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. See 5 U.S.C. 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the U.S. Small Business

Administration (SBA). See 15 U.S.C. 632.

Pursuant to the RFA, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the *Notice of Proposed Rulemaking*. (17 FCC Rcd at 19982 & 19986-89 paragraphs 53 & 68-78.) We received no comments in response to the IRFA. For the reasons described below, we now certify that the policies and rules adopted in the present *Report and Order* will not have a significant economic impact on a substantial number of small entities.

The *Report and Order* finds that the changes now unfolding in the U.S.-international market permits it to adopt a more limited application of our regulatory framework accompanied by competitive safeguards to protect U.S. customers against anticompetitive behavior. The Commission continues to believe that, where there is vigorous competition, market forces are causing international termination rates to move toward cost on many routes. It concludes that reforming its rules to remove the International Settlements Policy (ISP) from benchmark-compliant routes will give U.S. carriers greater flexibility to negotiate arrangements with foreign carriers. The Commission believes that doing so will encourage market-based arrangements between U.S. and foreign carriers that will further its long-standing policy goals of greater competition in the U.S.-international market and more cost-based rates for U.S. customers. The Commission has decided to retain the benchmarks policy subject to evaluation as to future modifications. It similarly will continue to evaluate the nature and effect of high foreign mobile termination rates on U.S. customers. It concludes that the record before us regarding future benchmarks policy and on foreign mobile termination rates is insufficient to warrant specific Commission action at this time.

The *Report and Order* requires that the ISP be removed from all U.S.-international routes that are benchmark-compliant and affirms, adopts, or modifies certain competitive safeguards to prevent potential anticompetitive harm on such routes. The rules and policies contained in the *Report and Order* apply to all carriers providing facilities-based international common carrier service pursuant to section 214 of the Act. It is uncertain as to the number of small entities that will be affected by the proposals. Agency data indicate the number of section 214 applications filed with the Commission continues to increase each year. The total number of licensees is difficult to

determine, because many licenses are jointly held by several licensees. The *Report and Order* will reduce the administrative burden on all carriers, both small and large, of complying with the ISP and contract and accounting rate filing costs. The *Report and Order* reduces the filing of carrier-to-carrier contracts contained in section 43.51. The *Report and Order* clarifies that section 43.51 applies solely to U.S. carrier contracts for international common carrier service involving dominant foreign carriers on routes where the ISP applies. The Commission narrows the contract filing requirement and clarifies that rate filings need not be made for routes removed from the ISP. These modified filing requirements will eliminate many current-required contract filings and rate filings currently made by all U.S.-international facilities-based carriers, including small entities, in the normal course of business; and therefore, do not impose a significant economic impact on these small entities. In this *Report and Order*, we adopt one of the proposals set forth in the NPRM and determine that removing the ISP from additional U.S.-international routes will give U.S.-international facilities-based carriers the flexibility necessary to respond to dynamic price and service changes in the marketplace and will best protect U.S. customers from the rates, terms and conditions that violate the Communications Act.

#### Ordering Clauses

Pursuant to Sections 1, 4(i)–4(j), 201–205, 214, 303(r), and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–154(j), 201–205, 214, 303(r), 309, the policies, rules, and requirements discussed herein are adopted and parts 43 and 63 of the Commission's rules, 47 CFR 0, 43, 63, and 64 are amended as specified in the rule changes, effective May 28, 2004. Except for §§ 43.51(d), 43.51(e), 64.1001 and 64.1002(c) which contain information requirements that have not yet been approved by Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

The Commission's Consumer and Government Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

The policies, rules, and requirements established in this decision shall take effect thirty days after publication in the **Federal Register** or in accordance with the requirements of 5 U.S.C. 801(a)(3) and 44 U.S.C. 3507.

#### List of Subjects in 47 CFR Parts 0, 43, 63, and 64

Communications and common carriers; reporting and recordkeeping requirements; Telecommunications.

The Federal Communications Commission.

**Marlene H. Dortch**,  
Secretary.

#### Final Rules

■ Parts 0, 43, 63, and 64 of the Commission rules are amended as follows:

#### PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

**Authority:** Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

#### § 0.457 [Amended]

■ 2. Section 0.457 is amended by removing paragraph (d)(1)(vi).

#### PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

■ 3. The authority citation for part 43 continues to read as follows:

**Authority:** 47 U.S.C. 154; Telecommunications Act of 1996; Pub. L. 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220, as amended.

■ 4. Section 43.51 is amended by revising paragraphs (b)(2), (b)(3), (d) and (e), and adding Note 4 to § 43.51 to read as follows:

#### § 43.51 Contracts and concessions.

\* \* \* \* \*

(b) \* \* \*

(2) A carrier that is engaged in foreign communications and that has been classified as dominant for any service on any of the U.S.-international routes included in the contract, except for a carrier classified as dominant on a particular route due only to a foreign carrier affiliation under § 63.10 of this chapter, or

(3) A carrier, other than a provider of commercial mobile radio services, that is engaged in foreign communications and enters into a contract, agreement, concession, license, authorization, operating agreement or other arrangement and amendments thereto with a foreign carrier that does not

qualify for the presumption, set forth in Note 3 to this section, that it lacks market power on the foreign end of one or more of the U.S.-international routes included in the contract, unless the route appears on the Commission's list of U.S.-international routes that the Commission has exempted from the international settlements policy set forth in § 64.1002 of this chapter.

\* \* \* \* \*

(d) Any U.S. carrier that interconnects to the U.S. public switched network an international private line that extends between the United States and a country that the Commission has not exempted from the international settlements policy shall file annually with the Chief of the International Bureau a certified statement containing the number and type (e.g., a 64-kbps circuit) of private lines interconnected at the carrier's own switch, including any switch in which the carrier holds a leasehold interest. The certified statement shall specify the number and type of interconnected private lines on a country specific basis. The identity of the customer need not be reported, and the Commission will treat the country of origin information as confidential. Carriers need not file their contracts for such interconnections, unless they are specifically requested to do so. These reports shall be filed on a consolidated basis on February 1 (covering international private lines interconnected during the preceding January 1 to December 31 period) of each year. International private lines to countries which the Commission has exempted from the international settlements policy, set forth in § 64.1002 of this chapter, at any time during a particular reporting period are exempt from this filing requirement.

(e) Other filing requirements for carriers providing service on U.S.-international routes that are subject to the international settlements policy.

(1) For routes subject to the international settlements policy set forth in § 64.1002 of this chapter, if a U.S. carrier files an operating or other agreement with a foreign carrier pursuant to paragraph (a) of this section to begin providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, the carrier must also file with the International Bureau a modification request under § 64.1001 of this chapter. The operating or other agreement cannot become effective until the modification request has been granted under paragraph § 64.1001(e) of this chapter.

(2) For routes subject to the international settlements policy, if a carrier files an amendment, pursuant to

paragraph (a) of this section, to an existing operating or other agreement with a foreign carrier to provide switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, and the amendment relates to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, the carrier must also file with the International Bureau a modification request under § 64.1001 of this chapter. The amendment to the operating or other agreement cannot become effective until the modification request has been granted under § 64.1001(e) of this chapter.

\* \* \* \* \*

**Note 4 to § 43.51:** The Commission's list of international routes exempted from the international settlements policy is available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

**PART 63—EXTENSION OF LINES, NEW LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS**

■ 5. The authority citation for part 63 continues to read as follows:

**Authority:** Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

**§ 63.12 [Amended]**

■ 6. Section 63.12 is amended by removing paragraph (c)(3) and redesignating (c)(4) as paragraph (c)(3).

■ 7. Section 63.14 is amended by revising paragraph (c) to read as follows:

**§ 63.14 Prohibition on agreeing to accept special concessions.**

\* \* \* \* \*

(c) This section shall not apply to the rates, terms and conditions in an agreement between a U.S. carrier and a foreign carrier that govern the settlement of U.S. international traffic, including the method for allocating return traffic, if the U.S. international route is exempt from the international settlements policy set forth in § 64.1002 of this chapter.

**Note to Paragraph (c):** The Commission's list of international routes exempted from the

international settlements policy is available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

**§ 63.16 [Removed]**

■ 8. Section 63.16 is removed.

■ 9. Section 63.17 is amended by revising paragraphs (b) introductory text, (b)(1), and (b)(2) to read as follows:

**§ 63.17 Special provisions for U.S. international common carriers.**

\* \* \* \* \*

(b) Except as provided in paragraph (b)(4) of this section, a U.S. common carrier, whether a reseller or facilities-based carrier, may engage in "switched hubbing" to countries that do not appear on the list of U.S. international routes exempted from the international settlements policy, set forth in § 64.1002 of this chapter provided the carrier complies with the following conditions:

- (1) U.S.-outbound switched traffic shall be routed over the carrier's authorized U.S. international circuits extending between the United States and a country that is exempt from the international settlements policy (*i.e.*, the "hub" country), and then forwarded to the third country only by taking at published rates and reselling the international message telephone service (IMTS) of a carrier in the hub country;
- (2) U.S.-inbound switched traffic shall be carried to a country that is exempt from the international settlements policy (*i.e.*, the "hub" country) as part of the IMTS traffic flow from a third country and then terminated in the United States over the carrier's authorized U.S. international circuits extending between the United States and the hub country.

\* \* \* \* \*

**Note to Paragraph (b):** The Commission's list of international routes exempted from the international settlements policy is available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

**§ 63.22 [Amended]**

■ 10. Section 63.22 is amended by removing paragraph (e) and redesignating paragraphs (f) and (g) as paragraphs (e) and (f).

■ 11. Section 63.23 is amended by revising paragraph (d) to read as follows:

**§ 63.23 Resale-based international common carriers.**

\* \* \* \* \*

(d) The carrier may provide switched basic services over its authorized resold private lines in either of the following two circumstances:

(1) The country at the foreign end of the private line appears on the Commission's list of international routes exempted from the international settlements policy set forth in § 64.1002 of this chapter; or

(2) The carrier is exchanging switched traffic with a foreign carrier that lacks market power in the country at the foreign end of the private line. A foreign carrier lacks market power for purposes of this section if it does not appear on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points.

**Note to Paragraph (d):** The Commission's list of international routes exempted from the international settlements policy, and the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points are available on the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

\* \* \* \* \*

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

■ 12. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Public Law 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

■ 13. Section 64.1001 is amended by revising the section heading, paragraphs (a) and (b), by removing paragraphs (c) and (e), and by redesignating paragraphs (d), (f), and (g) as paragraphs (c), (d), and (e), to read as follows:

**§ 64.1001 Requests to modify international settlement arrangements.**

(a) The procedures set forth in this rule apply to carriers that are required to file with the International Bureau, pursuant to § 43.51(e) of this chapter, requests to modify international settlement arrangements. Any operating agreement or amendment for which a modification request is required to be filed cannot become effective until the modification request has been granted under paragraph (f) of this section.

(b) A modification request must contain the following information:

- (1) The applicable international service;
- (2) The name of the foreign telecommunications administration;
- (3) The present accounting rate

(including any surcharges);  
 (4) The new accounting rate  
 (including any surcharges);  
 (5) The effective date;  
 (6) The division of the accounting  
 rate; and

(7) An explanation of any proposed  
 modification(s) in the operating  
 agreement with the foreign  
 correspondent.

\* \* \* \* \*

■ 14. Add § 64.1002 to subpart J to read  
 as follows:

**§ 64.1002 International settlements policy.**

(a) Except as provided in paragraph  
 (b) of this section, a common carrier that  
 is authorized pursuant to part 63 of this  
 chapter to provide facilities-based  
 switched voice, telex, telegraph, or  
 packet-switched service on a U.S.  
 international route, and that enters into  
 an operating or other agreement to  
 provide any such service in  
 correspondence with a foreign carrier  
 that does not qualify for the  
 presumption that it lacks market power  
 on the foreign end of the route, must  
 comply with the following  
 requirements:

(1) The terms and conditions of the  
 carrier's operating or other agreement  
 relating to the exchange of services,  
 interchange or routing of traffic and  
 matters concerning rates, accounting  
 rates, division of tolls, the allocation of  
 return traffic, or the basis of settlement  
 of traffic balances, are identical to the  
 equivalent terms and conditions in the  
 operating agreement of another carrier  
 providing the same or similar service  
 between the United States and the same  
 foreign point.

(2) The carrier shall not bargain for or  
 agree to accept more than its  
 proportionate share of return traffic.

(3) The division of tolls shall be  
 evenly-divided between the U.S. carrier  
 and foreign carrier.

(4) The carrier must also duly comply  
 with the requirements in § 43.51 and  
 § 64.1001 of this chapter.

**Note to Paragraph (a):** Carriers shall rely  
 on the Commission's list of foreign carriers  
 that do not qualify for the presumption that  
 they lack market power in particular foreign  
 points for purposes of determining which of  
 their foreign carrier correspondent  
 agreements are subject to the requirements of  
 this paragraph. This list is available on the  
 International Bureau's World Wide Web site  
 at <http://www.fcc.gov/ib>.

(b) A carrier that enters into an  
 operating or other agreement with a  
 foreign carrier for the provision of a  
 common carrier service on an  
 international route is not subject to the  
 requirements of paragraph (a) of this  
 section if the route appears on the  
 Commission's list of international routes  
 that the Commission has exempted from  
 the international settlements policy.

This list is available on the International  
 Bureau's World Wide Web site at  
<http://www.fcc.gov/ib>.

(c) A carrier that seeks to add a U.S.  
 international route to the list of routes  
 that are exempt from the international  
 settlements policy shall make its request  
 in writing to the International Bureau,  
 accompanied by a showing that a U.S.  
 carrier has entered into a benchmark-  
 compliant settlement rate agreement  
 with a foreign carrier that possesses  
 market power in the country at the  
 foreign end of the U.S. international  
 route that is the subject of the request.  
 The required showing shall consist of an  
 effective accounting rate modification,  
 filed pursuant to § 64.1001, that  
 includes a settlement rate that is at or  
 below the Commission's benchmark  
 settlement rate adopted for that country  
 in IB Docket No. 96-261, Report and  
 Order, 12 FCC Rcd 19,806, 62 FR 45758,  
 Aug. 29, 1997, available on the  
 International Bureau's World Wide Web  
 site at <http://www.fcc.gov/ib>.

(d) A carrier or other party may  
 request Commission intervention on a  
 route that the Commission has  
 exempted from the international  
 settlements policy by filing with the  
 International Bureau a petition,  
 pursuant to this section, demonstrating  
 anticompetitive behavior that is harmful  
 to U.S. customers. Carriers and other  
 parties filing complaints must support  
 their petitions with evidence, including  
 an affidavit and relevant commercial  
 agreements. The International Bureau  
 will review complaints on a case-by-  
 case basis and take appropriate action  
 on delegated authority pursuant to  
 § 0.261 of this chapter. Interested parties  
 will have 10 days from the date of  
 issuance of a public notice of the  
 petition to file comments or oppositions  
 to such petitions and subsequently 7  
 days for replies. In the event significant,  
 immediate harm to the public interest is  
 likely to occur that cannot be addressed  
 through *post facto* remedies, the  
 International Bureau may impose  
 temporary requirements on carriers  
 authorized pursuant to § 63.18 of this  
 chapter without prejudice to its findings  
 on such petitions.

**Note 1 to § 64.1002:** For purposes of this  
 section, *foreign carrier* is defined in § 63.09  
 of this chapter.

**Note 2 to § 64.1002:** For purposes of this  
 section, a *foreign carrier* shall be considered  
 to possess market power if it appears on the  
 Commission's list of foreign carriers that do  
 not qualify for the presumption that they lack  
 market power in particular foreign points.  
 This list is available on the International  
 Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

[FR Doc. 04-9505 Filed 4-27-04; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS  
 COMMISSION**

**47 CFR Part 25**

[MM Docket No. 93-25; FCC 04-44]

RIN 3060-AF39

**Implementation of the Cable Television  
 Consumer Protection and Competition  
 Act of 1992; Direct Broadcast Satellite  
 Public Interest Obligations**

**AGENCY:** Federal Communications  
 Commission.

**ACTION:** Final rule.

**SUMMARY:** This document vacates the  
 first Order on Reconsideration adopted  
 in this proceeding on April 9, 2003 and  
 adopts in its place a second Order on  
 Reconsideration and accompanying  
 rules. The second Order differs from the  
 Order on Reconsideration adopted April  
 9, 2003 with respect to Political  
 Broadcasting Requirements and  
 Guidelines Concerning  
 Commercialization of Children's  
 Programming. The second Order  
 considers Petitions for Reconsideration  
 and other pleadings filed in response to  
 a 1998 Order adopting public interest  
 obligations for DBS providers.

**EFFECTIVE DATE:** Effective May 28, 2004  
 except for §§ 25.701(d)(1)(i),  
 25.701(d)(1)(ii), 75.701(d)(2),  
 75.701(d)(3), 25.701(e)(3), 25.701  
 (f)(6)(i), and 25.701(f)(6)(ii) which  
 contains information collection  
 requirements that have not been  
 approved by OMB. The Federal  
 Communications Commission will  
 publish a document in the **Federal  
 Register** announcing the effective date.

**FOR FURTHER INFORMATION CONTACT:**  
 Rosalee Chiara, Policy Division, Media  
 Bureau, (202) 418-0754.

**SUPPLEMENTARY INFORMATION:** This is a  
 summary of the *Second Order on  
 Reconsideration of First Report and  
 Order ("2nd Order")* in MM Docket Nos.  
 93-25, FCC 04-44 adopted March 3,  
 2004 and released March 25, 2004. The  
 full text of this decision is available for  
 inspection and copying during normal  
 business hours in the FCC Reference  
 Information Center, Portals II, 445 12th  
 Street, SW., Room CY-A257,  
 Washington, DC 20554, and may be  
 purchased from the Commission's copy  
 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) or may be  
 viewed via Internet at <http://www.fcc.gov/mb/>.