

Court of Appeals for the Tenth Circuit asserting, in part, that the above-quoted language violates the First Amendment rights of TRS providers. On January 28, 2008, Sorenson filed with the Commission a request for a stay of paragraphs 95 and 96 pending judicial review. Sorenson Communications, Inc., *Request for Stay Pending Judicial Review*, CG Docket No. 03-123 (filed Jan. 28, 2008) (*Stay Request*).

2. In its *Stay Request*, Sorenson contends that it has a substantial likelihood of prevailing on the merits of the judicial review proceeding in the Tenth Circuit because paragraphs 95 and 96 of the *2007 TRS Cost Recovery Declaratory Ruling* violate Sorenson's First Amendment rights by "limiting [its] ability to engage in core political speech and to petition the government for redress of grievances" and by "restrict[ing] [its] ability to engage in protected commercial speech."

Although Sorenson does not dispute that the Commission has a substantial interest in preventing providers from using customer call data to offer TRS users financial incentives to make unnecessary TRS calls, it contends that the Commission has no substantial interest in preventing providers from contacting users for other reasons, including to assist them with service issues, to educate them about new service features, or to inform them of potential misuse of the service by third parties. Sorenson also asserts that, absent a stay, it will suffer irreparable harm through the loss of its First Amendment rights and harm to its business as a result of its inability to warn its users of scams and abusive relay practices. Sorenson further asserts that a stay will not injure other parties, as it will simply preserve the *status quo*. Finally, Sorenson asserts that a stay is in the public interest because the challenged restrictions run afoul of the First Amendment and impair the ability of TRS users to learn about developments in the provision of relay service.

3. In considering requests for stay, the Commission generally considers the four criteria set forth in *Virginia Petroleum Jobbers Association v. Federal Power Commission*, 259 F.2d 921, 925 (DC Cir. 1958). These criteria are: (1) A likelihood of success on the merits; (2) the threat of irreparable harm absent the grant of preliminary relief; (3) the degree of injury to other parties if relief is granted; and (4) the issuance of the order will further the public interest. As the Commission has explained, the relative importance of the four criteria will vary depending upon the circumstances of the case. If there is a

particularly overwhelming showing in at least one of the factors, the Commission may find that a stay is warranted notwithstanding the absence of another one of the factors.

4. The Bureau agrees that a temporary stay of paragraphs 95 and 96 of the *2007 TRS Cost Recovery Declaratory Ruling* is appropriate under the circumstances presented. Specifically, the Bureau concludes that a stay will further the public interest. The Bureau notes that Sorenson and other providers have raised several concerns, including their asserted inability to contact users for emergency or consumer protection-related purposes, that, if borne out by further Commission examination, may cause the Commission to reconsider the language of paragraphs 95 and 96 of the *2007 TRS Cost Recovery Declaratory Ruling*. In order to provide the Commission with sufficient time to consider the arguments presented by Sorenson and others, the Bureau finds that a temporary stay of those paragraphs is warranted. The Bureau therefore finds that it is in the public interest to grant the requested stay for a period of 90 days, starting February 7, 2008.

**Ordering Clause**

Pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and the authority delegated under §§ 0.141 and 0.361 of the Commission's rules, 47 CFR 0.141, 0.361, the Request for Stay filed by Sorenson Communications, Inc. on January 28, 2008, is *granted*, and will remain in effect for a period of 90 days, starting February 7, 2008.

Federal Communications Commission.

Nicole McGinnis,

Deputy Chief, Consumer and Governmental Affairs Bureau.

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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Part 201**

**Defense Federal Acquisition Regulation Supplement; Technical Amendments**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is making technical amendments to the Defense Federal

Acquisition Regulation Supplement (DFARS) to update a subpart heading and a reference to a DoD publication.

**EFFECTIVE DATE:** April 23, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone 703-602-0311; facsimile 703-602-7887.

**SUPPLEMENTARY INFORMATION:**

This final rule amends DFARS text as follows:

- *Subpart 201.6*. Revises the subpart heading for consistency with the corresponding subpart of the Federal Acquisition Regulation.
- *Section 201.603-2*. Updates references to a DoD publication addressing career development.

**List of Subjects in 48 CFR Part 201**

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Part 201 is amended as follows:

**PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM**

■ 1. The authority citation for 48 CFR Part 201 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. The heading of subpart 201.6 is revised to read as follows:

**Subpart 201.6—Career Development, Contracting Authority, and Responsibilities**

■ 3. Section 201.603-2 is amended by revising the second sentence of paragraph (2)(iii) and the second sentence of paragraph (3) to read as follows:

**201.603-2 Selection.**

\* \* \* \* \*

(2) \* \* \*

(iii) \* \* \* Information on developmental opportunities is contained in DoD Instruction 5000.66, Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program.

(3) \* \* \* Information on waivers is contained in DoD Instruction 5000.66.

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