

or service that allows subscribers to redirect, hand off, or assign their wire or electronic communications to another service area or another service provider or to utilize facilities in another service area or of another service provider shall ensure that, when the carrier that had been providing assistance for the interception of wire or electronic communications or access to call-identifying information pursuant to a court order or lawful authorization no longer has access to the content of such communications or call-identifying information within the service area in which interception has been occurring as a result of the subscriber's use of such a feature or service, information is made available to the government (before, during, or immediately after the transfer of such communications) identifying the provider of a wire or electronic communication service that has acquired access to the communications.

(Pub. L. 103-414, title I, § 103, Oct. 25, 1994, 108 Stat. 4280.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the date that is 4 years after Oct. 25, 1994, see section 111(b) of Pub. L. 103-414, set out as a note under section 1001 of this title.

§ 1003. Notices of capacity requirements

(a) Notices of maximum and actual capacity requirements

(1) In general

Not later than 1 year after October 25, 1994, after consulting with State and local law enforcement agencies, telecommunications carriers, providers of telecommunications support services, and manufacturers of telecommunications equipment, and after notice and comment, the Attorney General shall publish in the Federal Register and provide to appropriate telecommunications industry associations and standard-setting organizations—

(A) notice of the actual number of communication interceptions, pen registers, and trap and trace devices, representing a portion of the maximum capacity set forth under subparagraph (B), that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously by the date that is 4 years after October 25, 1994; and

(B) notice of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is 4 years after October 25, 1994.

(2) Basis of notices

The notices issued under paragraph (1)—

(A) may be based upon the type of equipment, type of service, number of subscribers, type or size or¹ carrier, nature of service area, or any other measure; and

(B) shall identify, to the maximum extent practicable, the capacity required at specific geographic locations.

(b) Compliance with capacity notices

(1) Initial capacity

Within 3 years after the publication by the Attorney General of a notice of capacity requirements or within 4 years after October 25, 1994, whichever is longer, a telecommunications carrier shall, subject to subsection (e), ensure that its systems are capable of—

(A) accommodating simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under subsection (a)(1)(A); and

(B) expanding to the maximum capacity set forth in the notice under subsection (a)(1)(B).

(2) Expansion to maximum capacity

After the date described in paragraph (1), a telecommunications carrier shall, subject to subsection (e), ensure that it can accommodate expeditiously any increase in the actual number of communication interceptions, pen registers, and trap and trace devices that authorized agencies may seek to conduct and use, up to the maximum capacity requirement set forth in the notice under subsection (a)(1)(B).

(c) Notices of increased maximum capacity requirements

(1) Notice

The Attorney General shall periodically publish in the Federal Register, after notice and comment, notice of any necessary increases in the maximum capacity requirement set forth in the notice under subsection (a)(1)(B).

(2) Compliance

Within 3 years after notice of increased maximum capacity requirements is published under paragraph (1), or within such longer time period as the Attorney General may specify, a telecommunications carrier shall, subject to subsection (e), ensure that its systems are capable of expanding to the increased maximum capacity set forth in the notice.

(d) Carrier statement

Within 180 days after the publication by the Attorney General of a notice of capacity requirements pursuant to subsection (a) or (c), a telecommunications carrier shall submit to the Attorney General a statement identifying any of its systems or services that do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under such subsection.

(e) Reimbursement required for compliance

The Attorney General shall review the statements submitted under subsection (d) and may, subject to the availability of appropriations, agree to reimburse a telecommunications carrier for costs directly associated with modifications to attain such capacity requirement that are determined to be reasonable in accordance with section 1008(e) of this title. Until the Attor-

¹ So in original. Probably should be "of".

ney General agrees to reimburse such carrier for such modification, such carrier shall be considered to be in compliance with the capacity notices under subsection (a) or (c).

(Pub. L. 103-414, title I, §104, Oct. 25, 1994, 108 Stat. 4282.)

§ 1004. Systems security and integrity

A telecommunications carrier shall ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier acting in accordance with regulations prescribed by the Commission.

(Pub. L. 103-414, title I, §105, Oct. 25, 1994, 108 Stat. 4283.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the date that is 4 years after Oct. 25, 1994, see section 111(b) of Pub. L. 103-414, set out as a note under section 1001 of this title.

§ 1005. Cooperation of equipment manufacturers and providers of telecommunications support services

(a) Consultation

A telecommunications carrier shall consult, as necessary, in a timely fashion with manufacturers of its telecommunications transmission and switching equipment and its providers of telecommunications support services for the purpose of ensuring that current and planned equipment, facilities, and services comply with the capability requirements of section 1002 of this title and the capacity requirements identified by the Attorney General under section 1003 of this title.

(b) Cooperation

Subject to sections 1003(e), 1007(a), and 1008(b) and (d) of this title, a manufacturer of telecommunications transmission or switching equipment and a provider of telecommunications support services shall, on a reasonably timely basis and at a reasonable charge, make available to the telecommunications carriers using its equipment, facilities, or services such features or modifications as are necessary to permit such carriers to comply with the capability requirements of section 1002 of this title and the capacity requirements identified by the Attorney General under section 1003 of this title.

(Pub. L. 103-414, title I, §106, Oct. 25, 1994, 108 Stat. 4284.)

§ 1006. Technical requirements and standards; extension of compliance date

(a) Safe harbor

(1) Consultation

To ensure the efficient and industry-wide implementation of the assistance capability requirements under section 1002 of this title, the Attorney General, in coordination with

other Federal, State, and local law enforcement agencies, shall consult with appropriate associations and standard-setting organizations of the telecommunications industry, with representatives of users of telecommunications equipment, facilities, and services, and with State utility commissions.

(2) Compliance under accepted standards

A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 1002 of this title, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 1005 of this title, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, or by the Commission under subsection (b), to meet the requirements of section 1002 of this title.

(3) Absence of standards

The absence of technical requirements or standards for implementing the assistance capability requirements of section 1002 of this title shall not—

(A) preclude a telecommunications carrier, manufacturer, or telecommunications support services provider from deploying a technology or service; or

(B) relieve a carrier, manufacturer, or telecommunications support services provider of the obligations imposed by section 1002 or 1005 of this title, as applicable.

(b) Commission authority

If industry associations or standard-setting organizations fail to issue technical requirements or standards or if a Government¹ agency or any other person believes that such requirements or standards are deficient, the agency or person may petition the Commission to establish, by rule, technical requirements or standards that—

(1) meet the assistance capability requirements of section 1002 of this title by cost-effective methods;

(2) protect the privacy and security of communications not authorized to be intercepted;

(3) minimize the cost of such compliance on residential ratepayers;

(4) serve the policy of the United States to encourage the provision of new technologies and services to the public; and

(5) provide a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under section 1002 of this title during any transition period.

(c) Extension of compliance date for equipment, facilities, and services

(1) Petition

A telecommunications carrier proposing to install or deploy, or having installed or deployed, any equipment, facility, or service

¹ So in original. Probably should not be capitalized.