

(Pub. L. 103-414, title I, §107, Oct. 25, 1994, 108 Stat. 4284.)

Editorial Notes

REFERENCES IN TEXT

The effective date of section 1002 of this title, referred to in subsec. (c)(1), is the date that is 4 years after Oct. 25, 1994, see section 111(b) of Pub. L. 103-414, set out as an Effective Date note under section 1001 of this title.

§ 1007. Enforcement orders

(a) Grounds for issuance

A court shall issue an order enforcing this subchapter under section 2522 of title 18 only if the court finds that—

- (1) alternative technologies or capabilities or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications or access to call-identifying information; and
- (2) compliance with the requirements of this subchapter is reasonably achievable through the application of available technology to the equipment, facility, or service at issue or would have been reasonably achievable if timely action had been taken.

(b) Time for compliance

Upon issuing an order enforcing this subchapter, the court shall specify a reasonable time and conditions for complying with its order, considering the good faith efforts to comply in a timely manner, any effect on the carrier's, manufacturer's, or service provider's ability to continue to do business, the degree of culpability or delay in undertaking efforts to comply, and such other matters as justice may require.

(c) Limitations

An order enforcing this subchapter may not—

- (1) require a telecommunications carrier to meet the Government's¹ demand for interception of communications and acquisition of call-identifying information to any extent in excess of the capacity for which the Attorney General has agreed to reimburse such carrier;
- (2) require any telecommunications carrier to comply with assistance capability requirement² of section 1002 of this title if the Commission has determined (pursuant to section 1008(b)(1) of this title) that compliance is not reasonably achievable, unless the Attorney General has agreed (pursuant to section 1008(b)(2) of this title) to pay the costs described in section 1008(b)(2)(A) of this title; or
- (3) require a telecommunications carrier to modify, for the purpose of complying with the assistance capability requirements of section 1002 of this title, any equipment, facility, or service deployed on or before January 1, 1995, unless—
 - (A) the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equip-

ment, facility, or service into compliance with those requirements; or

(B) the equipment, facility, or service has been replaced or significantly upgraded or otherwise undergoes major modification.

(Pub. L. 103-414, title I, §108, Oct. 25, 1994, 108 Stat. 4285.)

§ 1008. Payment of costs of telecommunications carriers to comply with capability requirements

(a) Equipment, facilities, and services deployed on or before January 1, 1995

The Attorney General may, subject to the availability of appropriations, agree to pay telecommunications carriers for all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 1002 of this title.

(b) Equipment, facilities, and services deployed after January 1, 1995

(1) Determinations of reasonably achievable

The Commission, on petition from a telecommunications carrier or any other interested person, and after notice to the Attorney General, shall determine whether compliance with the assistance capability requirements of section 1002 of this title is reasonably achievable with respect to any equipment, facility, or service installed or deployed after January 1, 1995. The Commission shall make such determination within 1 year after the date such petition is filed. In making such determination, the Commission shall determine whether compliance would impose significant difficulty or expense on the carrier or on the users of the carrier's systems and shall consider the following factors:

- (A) The effect on public safety and national security.
- (B) The effect on rates for basic residential telephone service.
- (C) The need to protect the privacy and security of communications not authorized to be intercepted.
- (D) The need to achieve the capability assistance requirements of section 1002 of this title by cost-effective methods.
- (E) The effect on the nature and cost of the equipment, facility, or service at issue.
- (F) The effect on the operation of the equipment, facility, or service at issue.
- (G) The policy of the United States to encourage the provision of new technologies and services to the public.
- (H) The financial resources of the telecommunications carrier.
- (I) The effect on competition in the provision of telecommunications services.
- (J) The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995.
- (K) Such other factors as the Commission determines are appropriate.

(2) Compensation

If compliance with the assistance capability requirements of section 1002 of this title is not

¹ So in original. Probably should not be capitalized.

² So in original. Probably should be "requirements".