

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL
FILE
RECEIVED

NOV 23 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 92-90

In the Matter of)
)
Rules and Regulations Implementing)
the Telephone Consumer Protection Act)
of 1991)

RECEIVED

NOV 23 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RECONSIDERATION AND CLARIFICATION

Suzanne Heaton
George A. Hanover
CONSUMER ELECTRONICS GROUP
ELECTRONIC INDUSTRIES ASSOCIATION
2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 457-4900

J. Hal Berge
TELECOMMUNICATIONS INDUSTRY
ASSOCIATION
2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 457-8737

Of Counsel:

James L. Casserly
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044
(202) 626-6600

November 23, 1992

0661
No. of Copies rec'd _____
List A B C D E _____

TABLE OF CONTENTS

SUMMARY	11
I. INTRODUCTION AND INTEREST OF EIA/CEG and TIA	2
II. DISCUSSION	4
A. The Deadline for Manufacturing Compliance Should Be Deferred	5
1. The current deadline is impracticable..	5
2. The Commission has the authority to extend the deadline.....	11
B. The Date/Time/ID Regulations Should Be Clarified.....	14
III. CONCLUSION	19

SUMMARY

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") and the Telecommunications Industry Association ("TIA") jointly request that the Commission reconsider and clarify a rule which implements a provision of the Telephone Consumer Protection Act. The requested changes and clarifications are necessary to prevent serious injury to manufacturers of facsimile machines and to protect consumers against needless constrictions in the availability of reasonably priced equipment. They will not interfere with the public policy objectives of the statute.

The Commission has required that facsimile machines manufactured on and after December 20, 1992, clearly mark the date, time, sender's identity, and sender's telephone number on each transmission. We strongly urge the Commission to extend this deadline. The machines most likely to lack date/time/ID capability, or part of this capability, are low-end machines, many of which lack the timekeeping circuitry necessary to mark the date and time of the transmission. To add a clock function to all models would add complexity and expense. Moreover, whether or not the clock and other functions are incorporated in any particular machine, a separate provision of the statute will ensure that all fax transmissions are properly labeled.

The harsh impact of the manufacturing requirement falls solely on models of equipment that are extremely unlikely to be used in an abusive manner, while the equipment which is likely to be used in the manner that concerned the Congress -- that is, fax boards -- is apparently subject to no manufacturing requirement, only a behavioral restriction. In addition, retention of the existing deadline would saddle manufacturers and consumers with a much greater burden than the Congress intended and depart markedly from the reasonable approach ordinarily used in Part 15 and Part 68 transitions.

EIA/CEG and TIA also request that the Commission clarify the regulation. In particular, we suggest that the date/time/ID manufacturing requirement should only apply to models initially manufactured on or after December 20, 1992, while models for which the Commission has already issued a Part 68 registration should be "grandfathered" for at least 18 months. We further suggest that the Commission clarify whether each model of fax machine must have its own internal clock, or whether it would be sufficient for the machine to have the capability to input the date and time in the same manner (albeit more frequently) that the sender's name and telephone number are also programmed. The Commission should also clarify that fax machines are only required to have the capability of transmitting date/time/ID information, not

that they must be designed not to operate when the user has failed to input the necessary data.

Clarification is also needed with respect to the treatment of "fax boards," which appear to be beyond the reach of the relevant provision of the statute. The Commission may also wish to take this opportunity to establish requirements relating to the information which manufacturers must provide to purchasers of fax machines.

RECEIVED

NOV 23 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Rules and Regulations Implementing) CC Docket No. 92-90
the Telephone Consumer Protection Act)
of 1991)

PETITION FOR RECONSIDERATION AND CLARIFICATION

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") and the Telecommunications Industry Association ("TIA") hereby request that the Commission reconsider and clarify the rules prescribed in the above-captioned Report and Order ("Order").¹ The clarifications and changes requested below are necessary to prevent serious injury to manufacturers of telephone facsimile machines and to protect consumers against needless constrictions in the availability of reasonably priced equipment.

Adoption of these reconsideration and clarification proposals will not in any way jeopardize the public policy objectives of the Telephone Consumer Protection Act of 1991 ("TCPA")² or the implementing rules

1/ FCC 92-443 (released Oct. 16, 1992). Official notice of the Commission's action appeared in the Federal Register on October 23, 1992. 57 Fed.Reg. 48,333 (1992).

2/ Pub.L. No. 102-243, 105 Stat. 2394 (Dec. 20, 1991), to be codified at 47 U.S.C. § 227.

adopted by the Commission. To the contrary, approval of this petition (and of the companion petition for stay, being filed contemporaneously in this docket) is essential so that the responsibilities being imposed upon manufacturers of facsimile machines can be clarified and so that the manufacturers and consumers of these products can be spared needless disruption and expense.

I. INTRODUCTION AND INTEREST OF EIA/CEG and TIA.

EIA/CEG represents the consumer electronics industry, an industry that provides the American public with televisions, radios, videocassette recorders and videocameras, compact disc players, and a wide variety of other products. The membership includes most of the world's major consumer electronics manufacturers, as well as many smaller companies that produce, import, distribute, sell, and service electronics products. In recent years, EIA/CEG's members have also begun to produce and market a growing array of products which connect to telephone lines, including relatively inexpensive versions of products -- such as facsimile machines -- that initially were designed (and priced) primarily for business applications.

TIA is a full-service national trade association with membership of nearly 500 large and small companies. Its members provide materials, products, systems, distribution services, and professional services to the

telecommunications industry in the United States and countries around the world. TIA represents the telecommunications industry in association with the Electronic Industries Association.

Neither EIA/CEG nor TIA was a party to the deliberations associated with the TCPA or the related rulemaking before the Commission. The primary thrust of the TCPA and of the regulations which implement it concerns unwanted telephone solicitations.³ An ancillary aspect of the statute and rules concerns the use of facsimile machines to send unsolicited advertising (sometimes referred to as "junk faxes"). Neither of these matters raises public policy issues of direct consequence to the members of EIA/CEG or TIA.

Unfortunately, it now appears that the ancillary issue of "junk faxes" has been dealt with in a manner which has unanticipated ramifications for consumer fax machines. Specifically, Section 68.314 of the Commission's rules has been amended in a manner that saddles manufacturers of facsimile machines with responsibilities which they simply cannot meet within the prescribed deadline, and which, upon close examination, can be seen to serve no legitimate public

^{3/} For example, the "findings" clause of Public Law 102-243 contains 15 numbered paragraphs explaining the problem which the Congress wished to rectify. The findings focus exclusively on "telemarketing" and "automated or prerecorded calls." See TCPA, Sec. 2.

policy objective. EIA/CEG and TIA therefore ask the Commission to clarify the rule and extend the deadline for compliance with it.

II. DISCUSSION

The TCPA has three provisions relating to facsimile machines. This petition is addressed to a rule which implements just one of those provisions. Still, it is helpful to place this provision in its proper context.

As codified, Section 227**(b)(1)(C)** of the statute outlaws the transmission of unsolicited advertisements to any facsimile machine. Section 227**(d)(1)** makes it unlawful for any person to use a computer or other electronic device to send any facsimile message unless such message clearly contains, at the top or bottom of each transmitted page or on the first page of the transmission, (1) the date and time it was sent, (2) an identification of the business, entity, or individual sending the message, and (3) the telephone number of the sending machine or of such business, entity, or individual (hereinafter collectively referred to as "date/time/ID"). Section 227**(d)(2)** requires the Commission to prescribe regulations which ensure that telephone facsimile machines manufactured on and after December 20, 1992, clearly mark the date/time/ID on the top or bottom of each transmitted page or on the first page of each transmission. It is the last of these provisions which gave

rise to the regulation which is the subject of this petition.

The Commission has embodied Section 227(d)(2) -- along with (d)(1)⁴ -- in a revision to Part 68, the telephone equipment registration rules, through a new paragraph (c)(3) in Section 68.318. EIA/CEG and TIA believe that the last sentence of this rule, which implements the manufacturing provision in (d)(2), is ambiguous and should be clarified. We further believe that the Commission can and should delay the effective date of the manufacturing requirement until a reasonable time (at least six months) after release of an order revising and clarifying the rules. The reasons for these proposals are more fully set forth below and in a companion Petition for Stay.

A. The Deadline for Manufacturing Compliance Should Be Deferred.

1. The current deadline is impracticable.

EIA/CEG and TIA strongly urge the Commission to extend the deadline for application of the date/time/ID requirement to newly manufactured products. Several considerations militate in favor of an extension of the manufacturing deadline:

⁴/ Section 227(d)(1) is self-executing and applies to users, not to manufacturers. The reason for incorporating this provision in Part 68 is not immediately apparent.

First and foremost, the adverse effects of the regulation will be most acutely felt by consumers. Many facsimile machines today already have the time/date/ID capability desired by the Congress, but those that do not tend to be the least expensive ones, those designed and marketed primarily to the consumer marketplace.

In fact, under the standard protocols in use today, the capability of transmitting the telephone number and the name of the sending entity is quite commonly incorporated in the software that handles the "handshaking" protocols.⁵ Many low-end machines, however, lack a clock or other means for users to mark the date and time of a transmission on the message, so they cannot transmit the time and date of the transmission, except as part of a user-prepared "cover sheet." It is for this reason -- and this reason alone -- that many models cannot meet the December 20 deadline.

A requirement that all fax machines have a clock could be accommodated, but it would add complexity and

^{5/} Because many in the industry have just learned of the date/time/ID requirement so recently (some in the past week!), there has not yet been an opportunity to fully explore precisely which of the hundreds of different models currently on the market have which capabilities. We cannot say with confidence that all machines contain the capability of transmitting the sender's name and telephone number, but the proportion of machines with this capability unquestionably exceeds the proportion with date- and time-stamping capability.

expense to the products.⁶ If manufacturing of machines which lack this capability must cease on December 20, consumers will be forced either to purchase higher-priced products or to wait until the low-end products are redesigned, a process that will require a minimum of six months and perhaps more (depending on how certain clarification issues are resolved).

Second, the purpose of the manufacturing provision will not be jeopardized by the requested extension. Under Section 227(b)(1)(C), it will be illegal, beginning December 20, 1992, to use any telephone facsimile machine, computer, or other device -- no matter when it was manufactured -- to send an unsolicited advertisement to a telephone facsimile machine. Under Section 227(d)(1), it will be illegal for any person to use a computer or or other electronic device -- no matter when it was manufactured -- to send any message via a telephone facsimile machine unless the sender clearly marks the date/time/ID information on the message.⁷

6/ Even once this occurs, of course, consumers would have to program, or set, the clocks correctly, if they are to serve their intended purpose. The mechanism for doing so is likely to be relatively similar to that in the timekeeping circuitry of a video-cassette recorder. If past experience is any guide, the "blinking 12:00" that is so familiar in the VCR environment may be replicated in the context of faxes as well. It is hard to imagine any benefit of accelerating the arrival of this eventuality, or any harm in delaying it.

7/ As the Commission knows, many individuals and organizations regularly include some or all of this information in a standardized cover page associated with each outgoing
(Footnote 7 continued on next page)

Approval of EIA/CEG's and TIA's request would not alter the effectiveness of either of these two prohibitions. Thus, an increased transition for the manufacturing requirement will not increase the danger that facsimile machines will be used to transmit unsolicited advertisements or "anonymous" facsimile messages.⁸

Third, the harsh impact of the manufacturing provision of the statute and the regulations falls solely on models of equipment that are extremely unlikely to be used in an abusive manner, while the equipment which is likely to be used in the manner that concerned the Congress is apparently subject to no manufacturing requirement, only a behavioral restriction. As we read the statute, the manufacturing provision applies only to machines which "transcribe text or images, or both from paper into an electronic signal and . . . transmit that signal over a regular telephone line" or vice versa (see Section 227(a)(2)), but not to "fax boards" used in conjunction with computers (since no paper is needed at the transmission end),⁹ which is the manner in which a business determined to

(Footnote 7 continued from previous page)
facsimile transmission. This practice will no longer be optional.

8/ The Commission should also be aware that many facsimile machines have the capability to record the date and time of incoming faxes, regardless of whether the sending party has caused that information to be placed on the message.

9/ But see discussion below at pages 17-18.

violate Section 227(d)(1) would most likely do so. Thus, the manufacturing requirement will not prevent the most likely sources of abuses, but it will impose needless costs and disruption upon manufacturers and consumers. There is no valid public policy justification for such a skewed approach.

Fourth, to maintain the existing transition deadline would be inconsistent with the congressional expectation that the requirement concerning manufacture of facsimile machines would impose only a "minimal burden" on manufacturers. Section XXVI, Paragraph 11(b), of the Standing Rules of the Senate requires an assessment of the regulatory impact of all legislation, and the Senate Commerce Committee Report stated that "the bill [establishes] some minimal technical requirements" which "may impose a minimal burden on the manufacturers of [facsimile] machines."¹⁰ Surely there can be no objection by the Congress to corrective action by the Commission which shelters manufacturers against burdens which are much more than "minimal."¹¹

^{10/} S. Rep. No. 178, 102d Cong., 1st Sess. 9 (1991) ("Senate Report"), reprinted in 1991 U.S. Code Cong. & Ad. News 1968, 1976 (emphasis added).

^{11/} Although the hurried circumstances surrounding the preparation of this petition have not allowed for a comprehensive survey, it appears that hundreds of thousands of fax machines are sold annually that do not comply fully with the new date/time/ID requirement. Lost sales due to (Footnote 11 continued on next page)

Fifth, the amount of time allowed for compliance with the new requirement is much shorter in this instance than in prior amendments of Part 68. Here, the regulation adopting this change in Part 68 became official on October 23, when it was published in the Federal Register,¹² yet changes in manufacturing design must be effectuated by December 20, only 58 days later.¹³ Insofar as EIA/CEG is aware, the Commission has never required manufacturing changes to be implemented so hastily.

Indeed, the more usual approach in Part 68 and related rulemakings is to allow transition intervals of at least 18 months.¹⁴ Here, because of the radically more compressed deadline, some manufacturers simply cannot comply

(Footnote 11 continued from previous page)

unanticipated suspension of sales of these models, coupled with redesign and other related expenses, would inevitably mount to many millions of dollars.

12/ 57 Fed.Reg. 48,333 (1992); see 47 C.F.R. § 1.4(b)(1)(1991).

13/ As of the date of this petition, that deadline is only 27 days away.

14/ See, e.g., Petitions Seeking Amendment of Part 68, 76 FCC 2d 246, 251-52 (¶¶ 14-15)(1980)(thirty-six month transition); Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network, 50 Fed.Reg. 48,203, 48,208 (¶ 23)(Nov. 22, 1985)(equipment designed to "old" rules allowed to be connected until 15 months after effective date of "new" rules); Revision of Part 15 of the Rules Regarding the Operation of Radio Frequency Devices Without an Individual License, 4 FCC Rcd 3493, 3519 (¶ 149) (1989)(Part 15 products allowed to be introduced under old standards for additional three years, and to be manufactured for two additional years thereafter). See also infra note 15.

with the new rule, and components and subassemblies that have already been manufactured for use in products that will be assembled after December 20 will simply have to be junked unless some extension is granted.

In short, it makes no sense to turn a statute that was intended to protect consumers into one that deprives consumers of the opportunity to purchase inexpensive facsimile machines due to an impossibly short deadline for alteration of manufacturing designs. Likewise, it would be senseless to penalize manufacturers of inexpensive consumer-oriented facsimile machines for abuses perpetrated primarily, if not exclusively, with very different equipment. It is imperative that the Commission exercise its discretion to allow for this one aspect of the statute to be phased in on a more reasonable schedule.

2. The Commission has the authority to extend the deadline.

It cannot seriously be doubted that the Commission has the authority to delay the date by which the manufacture of facsimile machines must incorporate the date/time/ID capability. In contrast to Section 227(b)(1)(C) and (d)(1), both of which are self-executing ("It shall be unlawful for any person . . ."), Section 227(d)(2) requires implementation via FCC regulation ("The Commission shall revise the regulations . . ."). The different approaches

must be presumed to reflect a conscious decision by the Congress to rely on the Commission's rulemaking process to specify the precise requirements applicable to the manufacture of fax machines. That rulemaking process allows for the Commission to apply its expert judgment in the manner which will best effectuate the legislative intent.

Further, it must be assumed that the Congress, in making its decision to have the manufacturing provision implemented through FCC regulation, was aware that the Commission's rules "may be suspended, revoked, amended, or waived for good cause shown." 47 C.F.R. § 1.3(1991). Where such a delay does nothing to thwart the purposes of the statute, the Commission therefore can and should exercise its discretion to prevent its rule from imposing undue burdens on manufacturers and on consumers.¹⁵

¹⁵/ The Commission has previously extended compliance deadlines where necessary to avoid undue disruption of manufacturing plans. See, e.g., Redefining and Clarifying the Rules Governing Restricted Radiation Devices and Low Power Communication Devices, 44 Fed.Reg. 59,530, 59,537 (¶ 45)(Oct. 16, 1979)(three months added to proposed transition of six months); Amendment of Part 15 to Redefine and Clarify the Rules Governing Restricted Radiation Devices and Low Power Communication Devices, 79 FCC 2d 67, 71-74 (¶¶ 10-22) (1980)(same deadline extended by six months for some products and 39 months for products introduced within 18 months after reconsideration order); Amendment of Part 15 of the Commission's Rules Concerning Input Selector Switches Used in Conjunction with Cable Television Service, 3 FCC Rcd 4222-4223 (¶¶ 9-12)(1988)(compliance schedule extended "to avoid disruption of the production and marketing" of various products).

If the Commission is reluctant to extend the deadline for compliance with the manufacturing requirement, there is another approach which may achieve a similar result. The Commission has the authority to announce that it will suspend enforcement of a particular regulation, as it recently did with respect to the requirement that line 19 of the television vertical blanking interval be used exclusively for transmission of the Vertical Interval Reference.¹⁶ As a general proposition, an agency's decision not to take enforcement action is presumed to be immune from judicial review because of a variety of prudential considerations which make it more appropriate to vest enforcement decisions within the exclusive province of the agency.¹⁷

The case presented here is surely deserving of at least a formal suspension of enforcement. A stay, however, would provide manufacturers with greater assurance of a stable environment (including protection against enforcement actions that might be initiated by third parties) and freedom from any ambiguity regarding the permissibility of implementing the new date/time/ID requirement at a reasonable, as opposed to precipitous, pace.

16/ Suspension of Section 73.682(a)(iv) of the Commission's Rules to Permit Additional Use of Line 19 of the Vertical Blanking Interval, FCC 92-479 (released Nov. 4, 1992).

17/ Heckler v. Cheny, 470 U.S. 821, 827-833 (1985).

B. The Date/Time/ID Regulations Should Be Clarified.

EIA/CEG and TIA believe that the regulation adopted by the Commission to implement the TCPA is not as clear as it could be. We urge the Commission to take this opportunity to clarify its intentions in several respects:

1. One way to avoid much of the problem discussed above would be to clarify that the date/time/ID manufacturing requirement only applies to models initially manufactured on or after December 20, 1992. Existing product lines for which a Part 68 registration has already been granted should be "grandfathered" for a minimum of 18 months, thereby allowing for continued production during most of the product's natural life cycle, even as new products are subjected to newly adopted requirements. This orderly approach is routinely employed in both Part 15 and Part 68 rulemakings.¹⁸ Use of this approach in the present context would be a reasonable interpretation of the language used by Congress and especially fitting if the Commission is reluctant to adopt any explicit deferral of the manufacturing deadline.

^{18/} A party which holds a valid grant of equipment authorization, such as under the telephone equipment registration program, normally does not anticipate that the authorization will become inoperative, or invalid, unless the product's design is changed.

2. Another uncertainty surrounding the rule is whether fax machines are required to have internal timekeeping capabilities, or simply to have the means for a user to mark the date and time on each transmitted message. It has been widely assumed that some form of a clock is now required to be incorporated into the design of fax machines, but this is not necessarily so. The statute and the rule both treat the date and time information in a parallel manner to the way they treat the sender's name and telephone number. The name and telephone number will be manually input by the user. Perhaps the date and time could be as well, albeit on a recurring basis.¹⁹

3. Once the manufacturing requirement goes into effect, all telephone facsimile machines are required to "mark . . . identifying information on each transmitted message." Order at Appendix B, revised Section 68.318(c)(3). This provision could easily be construed to require that facsimile machines have internal circuitry which prevents them from being used unless the time/date/ID information has been programmed in. It could also be construed to prevent the continued manufacture of machines which have a switch or other control that enables the user

^{19/} On low-end machines, in particular, the user will generally need to manually program the telephone number of the party to receive the message. Inputting the time and date could become a part of this process.

to determine whether this information is imprinted, or not, on outgoing facsimile transmissions.

The Order adopted by the Commission sheds no light on the Commission's intentions with regard to either issue.²⁰ This is especially surprising since the one manufacturer of facsimile machines which participated in the rulemaking specifically raised this issue, explaining the ambiguity in the language that the Commission had proposed, seeking clarification from the Commission on this very point, and proposing precise language to eliminate the ambiguity.²¹

In EIA/CEG's and TIA's judgment, the Commission should only require that the fax machines have the capability of transmitting date/time/ID information. Any other approach would introduce additional complications and costs into the manufacturing process, and for no good reason.²² This must have been the intent of Congress, for

^{20/} Depending on the clarification provided, even manufacturers which now believe their product lines are already compliant with the statute and regulation may find that they, too, need additional time for design and production changes. These changes would be even more costly and time-consuming than the efforts necessary to introduce a date- and time-stamping capability into each model.

^{21/} See Reply Comments of Tandy Corporation, CC Docket No. 92-90, at 2-4 (June 25, 1992).

^{22/} Anyone who is determined to send an unsolicited advertisement or to defy the requirement that facsimile messages be marked with date/time/ID information could easily program the machine with incorrect information.

it reasoned that most facsimile machines currently have date/time/ID transmittal capability,²³ yet the capability in all machines of which EIA/CEG is aware is one that can be used -- or not -- at the consumer's option.

4. Questions have arisen concerning the effect of the manufacturing requirement on manufacturers of "fax boards," that is, specially designed modems built into, or used as peripheral accessories to, personal computers. In contrast to Section 227(b)(1)(C), which applies to any "telephone facsimile machine, computer, or other device," Section 227(d)(2) applies only to "telephone facsimile machines." That term, in turn, is defined as "equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (b) to transcribe text or images (or both) from a electronic signal received over a regular telephone line onto paper." TCPA, § 227(a)(3) (emphasis added). A fax board does neither; its input and its output are both electronic.

Nonetheless, we understand that the Commission's staff is taking the view that fax boards are covered by the manufacturing requirement. While such an interpretation may fulfill the apparent intentions of the Congress, it is difficult to reconcile with the language and structure of

23/ Senate Report, supra, at 9.

the statute. Depending on the construction ultimately adopted, the problems of modifying products to comply with the manufacturing requirement could be substantially increased.

5. Yet another issue relates to the provision of instructions to purchasers of facsimile machines. In other contexts, the Commission has specifically required that certain information be included on a product (in a prescribed label format) or in manuals shipped with a product.²⁴ No such requirement applicable to manufacturers of facsimile machines is set forth either in the TCPA or in the implementing regulation.

Nonetheless, we understand that the Commission's staff may be planning to establish such a requirement, by means not yet specified. To establish any such requirement at this juncture and to make it applicable to products manufactured on or after December 20, 1992, would represent additional burden and expense for manufacturers. In contrast, adoption of such a requirement after notice-and-comment procedures, and with a reasonable transition period, would be far less burdensome and costly. The reconsideration process will allow for this matter to be fully considered and for any resulting requirement to be implemented over a reasonable period.

^{24/} See, e.g., 47 C.F.R. §§ 15.19, 15.21, 68.300 (1991).

III. CONCLUSION

For the reasons stated above, EIA/CEG and TIA respectfully request that the Commission stay the effectiveness of the final sentence of Section 68.318(c)(3), clarify that provision as requested above, and make the clarified provision applicable only to those products manufactured at least six months after issuance of the order granting clarification.

Respectfully submitted,

CONSUMER ELECTRONICS GROUP
ELECTRONIC INDUSTRIES ASSOCIATION

By: Suzanne Heaton
Suzanne Heaton
Staff Vice President
Government and Legal Affairs

By: George A. Hanover
George A. Hanover
Staff Vice President
Engineering

2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 457-4900

TELECOMMUNICATIONS INDUSTRY ASSOCIATION

By: J. Hal Berge Jr.
J. Hal Berge
Vice President

2001 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 457-4900

Of Counsel:

James L. Casserly
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044
(202) 626-6600

November 23, 1992