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

FEB 25 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Petition to Amend Part 68 of the)	CC Docket No. 93-268
Commission's Rules to Include)	
Terminal Equipment Connected to)	RM-7815
Basic Rate Access Service Provided)	
Via Integrated Services Digital)	
Network Access Technology)	
)	
and)	
)	
In the Matter of)	
)	
Petition to Amend Part 68 of the)	RM-6147
Commission's Rules to Include)	
Terminal Equipment Connected to)	
Public Switched Digital Service)	
)	
and)	
)	
Correction of Part 68 Typographical)	
Errors, Clarifications and a)	
Proposal for Part 68 Registration)	
Revocation Procedures)	

**REPLY COMMENTS OF THE INDEPENDENT DATA
COMMUNICATIONS MANUFACTURERS ASSOCIATION, INC.**

The Independent Data Communications Manufacturers Association, Inc. ("IDCMA"), by its attorneys, hereby replies to the comments submitted in response to the above-captioned Notice of Proposed Rulemaking ("Notice").¹ The overall conclusion of the overwhelming majority of commenters is that the Part 68 registration program should be extended to equipment connected to Integrated Services Digital Network ("ISDN") Basic Rate Access ("BRA") and Primary Rate Access ("PRA") services and also to equipment connected to

¹ A list of parties filing comments on or about February 10, 1994 is attached as Appendix A.

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Public Switched Digital Service ("PSDS"). The benefits of the Part 68 registration program -- a flourishing customer-premises equipment ("CPE") market, increased user choice, lower CPE prices, the development of innovative and technically advanced CPE, and the promotion of American jobs and exports -- should now be extended to ISDN and PSDS services as well.

Although the comments reflect strong support for the main thrust of the Notice, various subsidiary issues warrant some additional discussion.

I. POLICY QUESTIONS

The Purpose of Part 68. Two parties question the rationale of extending the Part 68 registration program to ISDN and PSDS services. U S West opposes the proposed rules because it believes that the lack of registration requirements for these services does not risk harm to the network.² U S West believes that harm to the network can be prevented by other means, such as "[s]tandards bodies, carrier rules and tariffs."³ BellSouth supports the proposed rules but only on the basis of protecting the network from harm, not for the other objectives cited in the Notice.⁴ Both parties contend that the purpose of Part 68 is only to prevent harm to the network.

IDCMA categorically rejects this notion. The purpose of the Part 68 registration program is to enable consumers to enjoy the benefits of CPE competition. The means to that end is the establishment of technical requirements and administrative procedures which allay any carrier concerns that independent supply of CPE could "harm" the network.

² U S West at 3.

³ U S West at 6.

⁴ BellSouth at 2-3.

An exhaustive review of the history is not needed for present purposes. Suffice it to say that the intellectual underpinning for the program is a judicial policy establishing "the telephone subscriber's right reasonably to use his telephone in ways which are privately beneficial without being publicly detrimental."⁵ Indeed, the importance of CPE competition and the critical role that the Part 68 registration program plays in insuring competition has been emphasized in recent Congressional testimony by Chairman Hundt:

From the Hush-a-Phone case in the 1950's and the Carterfone case in the 1960's to the adoption of the FCC's Part 68 registration program in the 1970's, momentum toward ending the telephone company's monopoly control of the customer premises equipment ("CPE") market gradually increased until the FCC deregulated this business and unleashed the forces of competition.⁶

It is astonishing that two major carriers are unacquainted with this history. This lack of perspective leads U S West into fundamental error. U S West says the extension of Part 68 to ISDN and PSDS is "unnecessary" because "there is no prohibition against a carrier permitting connection of unregistered equipment."⁷ This is true, but irrelevant. It is the converse statement that matters: there is no requirement that a carrier allow the connection of unregistered equipment.⁸

⁵ Hush-A-Phone Corp. v. United States, 238 F.2d 266, 269 (D.C. Cir. 1956)(emphasis supplied); See also Use of the Carterfone Device in Message Toll Telephone Service, 13 F.C.C.2d 420 (1968), reconsideration denied, 14 F.C.C.2d 571 (1968); Proposals for New or Revised Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS), First Report and Order (Docket No. 19528), 56 F.C.C.2d 593, 598-99 (1975) (subsequent history omitted).

⁶ Statement of Reed E. Hundt, FCC Chairman, before the House Subcommittee on Telecommunications and Finance, at 4 (Jan. 27, 1994).

⁷ U S West at 3.

⁸ In a related vein, NYNEX suggests that carriers should have "the flexibility to work outside Part 68 Rules when introducing new services." NYNEX at 5. IDCMA agrees. It is entirely appropriate for new services to be introduced through tariffs and network information disclosure procedures (as, in fact, occurred with ISDN and PSDS). As the service matures, however, it becomes appropriate to amend Part 68. (Incidentally, it is important to reiterate that the burden

Registration provides a guarantee of the right of interconnection. It eliminates any excuse for the carrier to restrict the use of competitively provided CPE. This is ample reason to extend Part 68 to ISDN and PSDS.

Network Connectors and Use of Tariffs. Several parties oppose the designation of a specific network connector (jack) for ISDN and PSDS services as unnecessary,⁹ and others propose setting network connector requirements through the tariff process.¹⁰ IDCMA, however, firmly believes that the designation of a uniform network connector is necessary and must be done through Part 68 regulations.

The potential confusion and interconnection problems of allowing for carrier discretion in this area are demonstrated by NYNEX. In NYNEX's list of acceptable jacks (NYNEX at 4), the jacks suggested for 2-wire ISDN BRA and 4-wire PSDS (both single and multiple lines) have different pin counts and pin assignments. The use of so many different connectors will create constant connection problems. A uniform jack, by contrast, will eliminate any geographic differences and allow all equipment to connect to the network at any location.

Ameritech suggests that adapters can be used to permit a device with a particular plug to be connected in locations where different network connectors are used.¹¹ The use of adapters as a substitute for setting a uniform network connector is illogical. Extensive use

of network information disclosure is on the carrier, not the manufacturer which supplies the equipment to the carrier which is used in the provision of the new service. IDCMA has experienced two recent situations in which carriers sought to rely on their suppliers to fulfill their own obligation, which cannot be delegated. See 47 CFR §§ 64.702(d)(2), 68.110(b) (1992).

⁹ See Ameritech at 2-3; BellSouth at 4; NYNEX at 4-5; Bell Atlantic at 4-5.

¹⁰ AT&T at 3-4; NYNEX at 4-5.

¹¹ Ameritech at 3.

of adapters will increase the cost of equipment,¹² cause confusion to users of the equipment, and lower the reliability of the service by creating another point of potential network failure.¹³ The increased costs, confusion for users, and the adverse effects on equipment reliability provide abundant reasons why uniform network connectors should be selected for these services.

Once the need for uniform connectors is properly understood, it becomes obvious why the connectors must be prescribed in Part 68 rules. All of the advantages of uniform connectors discussed above would be endangered if individual carriers were free to specify different connectors in their tariffs and thus defeat the advantages of uniformity.

Registration Revocation. While IDCMA strongly supports the Commission's proposal to revoke Part 68 equipment registrations of parties who have violated rules, IDCMA remains concerned over the broad scope of the proposed rule. IDCMA agrees with U S West that the revocation of equipment registrations should only occur for conduct that is related to the registered equipment or the associated application rather than in some unrelated area under the Commission's jurisdiction.¹⁴ The concerns expressed by NATA on the breadth of the registration revocation provisions also appear to be valid.¹⁵ Manufacturers should not lose their registration when equipment that met applicable standards

¹² If different jacks are used to any significant degree, manufacturers will be forced to include at least one adapter with each CPE shipment.

¹³ SWB notes that use of an adapter "would place an unnecessary item of equipment in the circuitry, which itself could present a source of potential service disruption or other trouble." Comments of SWB at 4. See also TIA at 8 (adapters are not the preferred method of interconnection).

¹⁴ See U S West at 6-7.

¹⁵ NATA at 4-7.

when it was manufactured does not comply with subsequent rule changes or when third-parties in equipment after markets alter the characteristics of the equipment.

Rulemaking Process. TIA has suggested that the Commission move faster to change and correct Part 68 due to the ever accelerating rate of technological change.¹⁶ IDCMA agrees that it is desirable to expedite the rulemaking process. Since new services are being introduced at an increasingly rapid rate, the Commission should quickly act to amend Part 68. The advantages of Part 68 will be most fully enjoyed if the regulations are current.

IDCMA cannot agree, however, that the Commission should defer to "industry consensus," as suggested by TIA,¹⁷ because in some instances the "industry consensus" is either incorrect or contrary to the established policies of the Commission. To be sure, where it may be advantageous for the FCC to delegate certain technical matters to standards bodies, and the development of voluntary standards on complex technical subjects should surely be an industry-driven activity in most situations. Nonetheless, it must be remembered that industry standards bodies lack the Commission's policymaking authority, expertise, and responsibility and the actions of standards bodies should be in accordance with FCC policy. There have been situations in the past where an "industry consensus" on a technical matter was invoked to subvert an FCC rule or principle, but -- fortunately -- the Commission did not abdicate its responsibilities.¹⁸ It should not do so in the future.

¹⁶ TIA at 2.

¹⁷ TIA at 3.

¹⁸ See BellSouth's Petition for Declaratory Ruling or, Alternatively, Request for Limited Waiver of the CPE Rules to Provide Line Build Out (LBO) Functionality as a Component of Regulated Network Interface Connectors on Customer Premises, 6 FCC Rcd 3336, 3342 (1991).

II. TECHNICAL ISSUES

PSDS Tolerances. TIA suggests that the tolerance of plus or minus 5 pulses per second for PSDS Types II and III in proposed Section 68.308(h)(3) be eliminated.¹⁹ IDCMA disagrees. The degree of permissible variation needs to be specified. A tolerance of plus or minus 5 pulses per second is not unreasonably restrictive. Accordingly, IDCMA supports the Commission's proposal on this issue.

Test Equipment Usage. TIA suggests that the exemption for certain test equipment used by telephone companies for network installation and maintenance be expanded to include usage by interexchange carriers, competitive access providers, and other service providers.²⁰ IDCMA agrees that the exemption for test equipment should not be limited to use by telephone companies. In the view of IDCMA, however, the same exemption should apply when the same test equipment is used by CPE providers and end-users.

Inverse Multiplexers. NYNEX suggests that the Commission investigate setting standards for the use of inverse multiplexers as ISDN terminal equipment.²¹ IDCMA sees no need for this proposal. Since the inverse multiplexers are CPE which use 56 and 64 kbps service and the proposed rules contain requirements for interconnection of CPE with 56 and 64 kbps ISDN services, no additional requirements are necessary.²² To the extent the inverse multiplexers require connection to multiple circuits, the same Part 68 rules already under development will specify the interconnection requirements. In other words, if the rules

¹⁹ TIA at 11.

²⁰ TIA at 11.

²¹ NYNEX at 5-6.

²² See TIA at 10.

already specify the characteristics necessary for connection to a 64 kbps service, the same rules should apply to a device capable of connecting to separate multiple ("n") 64 kbps services. From the network point of view, each of these circuits is independent.

Encoded Analog Content/Signalling Interference Requirements. NYNEX proposes that private standards bodies determine the specific signalling interference requirements for ISDN.²³ Assuming the legitimacy of the existing restriction on encoded analog content, IDCMA believes that encoded analog content requirements are unobjectionable as currently required, however the signal interference requirements are completely unnecessary from a network harm point of view. As noted above, standards bodies should only be permitted to establish requirements after a policy decision has been made by the Commission.

Miscellaneous Technical Corrections. Several parties suggested some changes and corrections on certain technical matters. IDCMA generally supports these alterations as clarified below.

- The through-gain limitations in Section 68.308(b)(5) should use the term "substrate" rather than the term "DDS" to be consistent with other references in the text;²⁴ through-gain limitations, however, should be deferred until TIA committee recommendations for harmonization are available.²⁵
- Only metallic to longitudinal (M-L) balance requirements for ISDN and PSDS should be included in the proposed rules.²⁶

²³ NYNEX at 3.

²⁴ See TIA at 4; NYNEX at 3.

²⁵ TIA at 3.

²⁶ Bell Atlantic at 3 (only M-L is a potential harm to the network); But see NYNEX at 2-3 (L-M should also be included).

- Section 68.308(h)(2) should be changed to include references to ISDN PRA, and the pulse template specified in Table III should allow a maximum pulse height of 3.6 volts.²⁷
- The Zero Level Decoder definition should be amended to comply with the μ 255 Pulse Code Modulation encoding law.²⁸
- The terms "on-hook" and "off-hook" are foreign to ISDN, and therefore these terms should not be used in reference to ISDN services.²⁹
- The scrambling algorithm for PSDS Types II and III proposed in Section 68.308(h)(3)(ii) appears to be unnecessary to prevent network harm and therefore should not be included in the proposed rules.³⁰
- While the Commission's intent in proposed Section 68.200(d) appears to be unobjectionable, TIA's suggested language of "referencing acceptable test procedures" appears to be more clear.³¹
- The pulse heights in Tables IV(A) and (B) under proposed Section 68.308(h)(3)(i) should permit fluctuation within a range of fifteen percent rather than five percent.³²
- The two-second delay in transmission for PSDS Types I, II, and III in proposed Section 68.314(a)(3) should be deleted because the need for such a delay to provide billing protection has not been established.³³
- PSDS Type I should be included in proposed Sections 68.308(b)(1)(viii) and (b)(2)(iii) if and to the extent that encoded analog content rules are retained.³⁴

²⁷ See TIA at 5; IDCMA at 5.

²⁸ See TIA at 5.

²⁹ See TIA at 5.

³⁰ See TIA at 8-9; IDCMA at 6; BellSouth at 4-5.

³¹ TIA at 10.

³² See AT&T at 2; TIA at 12.

³³ See AT&T at 2-3 (refers to Types I and III only); IDCMA at 5. IDCMA understands that Type II PSDS service may be essentially nonexistent.

³⁴ See BellSouth at 5.

Finally, the Commission should make the language and typographical corrections suggested by TIA for proposed Sections 68.3 and 68.310(l)³⁵ and by Ameritech for proposed Sections 68.308(b)(1)(viii) and (b)(2)(iii).³⁶

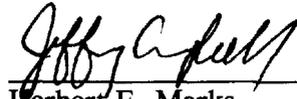
III. CONCLUSION

The Part 68 registration program has been an unqualified success in its goals of preventing discrimination in equipment interconnection, encouraging CPE competition, and alleviating fears of harm to the network. IDCMA strongly supports the extension of the registration program to ISDN and PSDS services subject to the minor modifications suggested above. The implementation of the proposed rules will benefit carriers, manufacturers, and consumers.

Respectfully submitted,

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³⁵ TIA at 12.

³⁶ Ameritech at 3.

Appendix A

Alphabetical List of Parties

American Telephone and Telegraph Company ("AT&T")

Ameritech

Bell Atlantic

BellSouth Telecommunications, Inc. ("BellSouth")

Independent Data Communication Manufacturers Association, Inc. ("IDCMA")

North American Telecommunications Association ("NATA")

NYNEX Telephone Companies ("NYNEX")

Pacific Bell and Nevada Bell

Southwestern Bell Telephone Company ("SWB")

Telecommunications Industry Association ("TIA")

U S WEST Communications, Inc. ("U S West")