

ORIGINAL



Alliance for Telecommunications
Industry Solutions

Problem Solvers to the
Telecommunications Industry

February 7, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

EX PARTE OR LATE FILED

Magalie Roman Salas
Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: *Ex Parte* Presentation in CC Docket No. 99-216

Dear Ms. Salas:

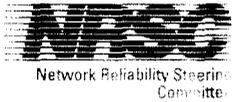
On February 5, 2001, the Alliance for Telecommunications Industry Solutions (ATIS) and the Telecommunications Industry Association (TIA) met with Commission staff to further discuss the implementation of the Report and Order in CC Docket No. 99-216 regarding Part 68. The individuals representing ATIS were Megan Campbell, ATIS General Counsel, and Ed Hall, Vice President, Technology Development. The individuals representing TIA were Dan Bart, Senior Vice President, Standards & Special Projects, and Stephen Whitesell, Chair, TIA TR-41. The Commission staff in attendance included Staci Pies, Deputy Chief, NSD, CCB, Bill Howden, Senior Engineer, NSD, CCB, Dennis Johnson, Attorney, NSD and Susan Magnotti, Attorney.

The discussion focused on the planning activities of ATIS and TIA consistent with the presentation materials distributed. The presentation materials are included as an attachment to this letter. ATIS and TIA also mentioned a few items in the Report and Order potentially requiring clarification or revision. Those items included clarification issues regarding the ANSI appeals process and the need for both manufacturer and responsible party identification on equipment labels. For the latter, a written explanation of the issue was submitted to the Commission and is included as an attachment to this letter, as well.

Pursuant to Section 1.1206(a)(1) of the Commissions Rules, ATIS submits an original and one copy of this notice of *ex parte* contact for inclusion in the public record of the above-referenced proceeding. Please date-stamp and return the extra

Copies rec'd at 1

CODE



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ATIS

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Megan L. Campbell
ATIS

copy to our messenger. Should you have any questions regarding this matter, please contact me at 202/434-8847.

Sincerely,

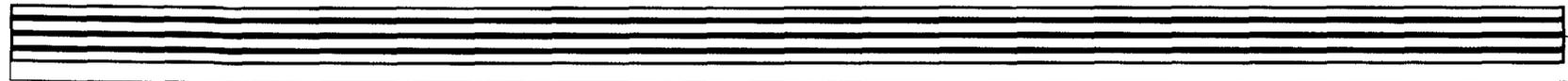


Megan L. Campbell
General Counsel

Enclosures

cc: Staci Pies, Deputy Chief, NSD, CCB
Bill Howden, Senior Engineer, NSD, CCB
Dennis Johnson, Attorney, NSD
Susan Magnotti, Attorney, NSD

TIA/ATIS Part 68 Meeting



January 26, 2001

Agreements to Implement
FCC Report and Order

FCC Order para 40

- The sponsoring organization is responsible for ensuring that the industry populates the Administrative Council in a manner consistent with ANSI criteria for a **balanced and open membership**. We require the sponsor to notify the industry that it intends to establish a Administrative Council with membership that is **balanced in terms of the points of view** represented.

FCC Order para 50

- We conclude that the Administrative Council should be a non-governmental entity that is not controlled or dominated by any particular telecommunications industry segment. The Administrative Council must be fair and impartial. We believe that the separation of the sponsoring organization, the Administrative Council, and standards development functions eliminates any concerns regarding even the appearance of bias on the part of the Administrative Council.

FCC Order para 51

- [W]e anticipate the Administrative Council membership will represent **all** segments of the industry including local exchange carriers, interexchange carriers, terminal and network equipment manufacturers, test laboratories, and other interested parties.

FCC Order para 51

- We require that the Administrative Council **limit** the number of Administrative Council members to a workable number. This requirement, however, shall not be used to limit arbitrarily participation by any one segment of the industry.

§68.602 Sponsor of Administrative Council for Terminal the Attachment.

- (a) The Telecommunications Industry Association (TIA) and the Alliance for Telecommunications Industry Solutions (ATIS) **jointly shall establish the Administrative Council for Terminal Attachment** and shall sponsor the Administrative Council for Terminal Attachments for four years from the effective date of these rules.

Sponsors' Conclusions

- 6 Voting Segments; *No one segment controls*
 - local exchange carriers (LEC),
 - interexchange carriers (IXC),
 - terminal equipment manufacturers (TEM),
 - network equipment manufacturers (NEM),
 - test laboratories (LABS), and
 - other interested parties (OIP)
- 1 Non-Voting Segment: “Invited Observers”

Sponsors' Conclusions

- 6 Voting Segments
- Need majority to make decisions per FCC
- Chairperson: Non-voting
- Invited Observer: Non-voting *e.g.*, Industry Canada

Sponsors' Conclusions

- 2 **principal** representatives per segment; 6 segments; 12 voting members, (*i.e.*, “limited” and workable number)
- Additionally, 1 **alternate** per segment without voting rights unless filling in for principal.
- Total Active ACTA count: $3 \times 6 = 18$ Reps
- Plus 1 Non-voting **Chairperson**
- Plus non-voting **Observers**

Sponsors' Conclusions

- Only segment participants vote their representatives from nominated candidates
- Electronic (e-mail) election completed prior to first ACTA meeting.
- First meeting, ACTA already “populated,” time spent on “real work” not elections
- ACTA has power to add more segments if needed in the future.

Notice to Industry (wide distribution)

- Notice of first ACTA meeting date/location (DC area)
- Call for getting on electronic mailing/voting list.
- Identified by segment (must declare one segment)
- Call for nominations for Principals/Alternates with resume of Part 68-related knowledge and experience. Letter of support from employer req'd.
- Call for nominations for Chair of ACTA, with experience. Letter of support from employer req'd.

Elections Process

Segment Representatives

- After nominations close, list of proposed candidates, per segment, sent by electronic ballot to organizations/companies comprising segment (one organization/company one vote)
- Voting close date announced in addition
- Segments select their 2 principals and 1 alternate
- Sponsors announce results; ACTA populated
- Term limits: two, 2-year terms (if re-elected). Can serve added terms if no other segment candidates

Election Process

Chair

- At first meeting, ACTA reviews candidates for, non-voting Chair
- ACTA elects ACTA Chair to assume duties at end of first meeting
- First meeting chaired by representatives of co-sponsors (organizational meeting)
- If Chair elected was also an elected Segment Representative, then for next meeting, Alternate moves up and Segment backfills Alternate slot

First Meeting Objectives

- Elect Chair
- Identify “Invited Observers” (non-voting)
- Structure of ACTA
- Review draft Charter
- Review draft Operational Principles & Procedures

First Meeting Objectives

- Identify workplan
- Identify Secretariat services required from sponsors (§68.602 (c))
- Set timeline for meetings
- Identify action items

Other Details

- TIA has taken out Project Number (PN-3-0005 assigned, ANSI Standards Action 2/23/01), for existing technical rules as ANS.
- Secretariat duties allocated
- Notice to industry will give idea of meeting frequency, time/travel commitments

Issues Pending

- Draft Charter
- Draft Operational Principles and Procedures
- Proposed sub-groups
- Subgroups open to interested parties, do not “make” decisions, recommend positions to ACTA for actual decision (like many FACAs today, NANC, NRIC, etc.)

Clarifications of Order May be Needed

- Although adopted Rules legally effective 2/23/01, some sections of Order may need clarifications
- ANSI issues, need separate meeting
- Other issues

Questions/Comments?



Paragraph 115 of the R&O addresses requirements for the product label and reads in part as follows:

While we are leaving the specific format up to the industry, we require labeling to contain sufficient information for providers of telecommunications, this Commission, and the U.S. Customs Service to carry out their functions, and for consumers to easily identify the supplier of their terminal equipment. Moreover, as with the creation of the database, the Administrative Council shall adopt a numbering and labeling scheme that is nondiscriminatory, creating no competitive advantage for any entity or segment of the industry.

Note, particularly, that the Commission wants consumers to be able to easily identify the "supplier" of their equipment. Earlier, when discussing approval methods in Paragraph 86 of the R&O, the Commission clearly indicates in Footnote 145 that by "supplier" they mean "responsible party":

We define the term supplier as the responsible party.

In Paragraph 94, the R&O again equates "supplier" to "responsible party" but does take note in Footnote 178 that 47 CFR §2.209(b) defines "responsible party" as a "manufacturer" or "importer":

See 47 C.F.R. § 2.909(b) where "responsible party" is defined as a manufacturer or importer.

The Commission deals with this in the text for the definition of "Responsible Party" that it adds to the §68.3 of the rules, which reads in part as follows:

If a Telecommunications Certification Body certifies the terminal equipment, the responsible party is the holder of the certificate for that equipment. If the terminal equipment is the subject of a Supplier's Declaration of Conformity, the responsible party shall be: (1) the manufacturer of the terminal equipment, or (2) the manufacturer of protective circuitry that is marketed for use with terminal equipment that is not to be connected directly to the network, or (3) if the equipment is imported, the importer, or (4) if the terminal equipment is assembled from individual component parts, the assembler.

To summarize thus far: It was the Commission's intent that consumers be able to easily identify the "supplier" of their terminal equipment. By "supplier" the Commission meant "responsible party," who might be a "manufacturer", an "importer", an "assembler" or someone else. However, the text of the new rules provided at §68.354(d) and §68.612 would require both the "responsible party" and the "manufacturer" to be identified by the labeling. The rules read in part as follows:

Labeling developed for terminal equipment by the Administrative Council for Terminal Attachments shall contain sufficient information for providers of wireline telecommunications, the Federal Communications Commission, and the U.S. Customs Service to carry out their functions, and for consumers to easily identify the responsible party and the manufacturer of their terminal equipment. The numbering and labeling scheme shall be nondiscriminatory, creating no competitive advantage for any entity or segment of the industry.

and

Labeling shall meet the requirements of the Federal Communications Commission and the U.S. Customs Service for their respective enforcement purposes, and of consumers for purposes of identifying the responsible party, manufacturer and model number.

This wording goes beyond the Commission's intent. Clearly, the Commission wanted a consumer with a question or complaint about a product to be able to easily contact the "supplier" or "responsible party" for the equipment, which at least for a Suppliers Declaration of Conformity, must be a party in the US. See §68.321:

The responsible party for a Supplier's Declaration of Conformity must be located within the United States.

It should not be necessary for the consumer to have to contact a "manufacturer" who might be located half way around the world. The wording of §68.354(d) and §68.612 should be changed to eliminate the requirement for the label to identify the "manufacturer" in addition to the "responsible party" for the following reasons:

- It is more onerous than the present rules which require only the "grantee", who is also the "responsible party", to be identified (see §68.300).
- It is inconsistent with the Common Carrier Bureau's recent decision to allow the code MUL to be used as part of the Registration number to identify multiple manufacturing locations, which can conceivably be different manufacturers of the same product for one "grantee".
- It might be interpreted as creating a competitive disadvantage for "responsible parties" who are not also the "manufacturer" of the product. They would have to have larger labels to identify both "responsible party" and the "manufacturer" than would a "responsible party" who is also the "manufacturer." And by so doing, they would have to advertise the fact that they were not the manufacturer.