FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of	)	
	)	
Review of Part 15 and other Parts of the Commission's Rules	)	ET Docket No. 01-278
	)	
	)	

MEMORANDUM OPINION AND ORDER

Adopted: November 5, 2004 **Released:** November 9, 2004

By the Commission:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order*, we are addressing three petitions for reconsideration of various aspects of the rule changes adopted in the *Second Report and Order and Memorandum Opinion and Order* (*Second Report and Order*) in this proceeding.[1] In particular, we are: 1) granting a request to permit compliance information statements for self-authorized equipment to be provided in alternative formats; 2) granting a request to permit longer duration transmissions during the setup of security systems; and 3) denying requests to permit electronic labeling of self-authorized equipment, to further relax the equipment authorization requirements for low frequency intentional radiators and to require foreign regulators to accept accreditations of United States laboratories.

II. BACKGROUND

2. In the *Second Report and Order*, the Commission updated certain regulations contained in Parts 2, 15 and 18 of the rules. Specifically, the Commission: 1) changed the harmonic emission limits in certain restricted bands above 38.6 GHz; 2) eliminated the prohibition on data transmissions by Part 15 remote control devices and made other changes to rules governing such devices; 3) modified the rules for radio frequency identification systems to allow for improved operation; 4) simplified the labeling requirements for manufacturer self-authorized equipment; 5) allowed Part 15 information statements to be provided in alternative formats, such as on computer disk or over the Internet; and 6) relaxed the equipment authorization requirement for low-frequency, low-powered intentional radiators from certification to verification.

3. Three parties filed petitions for reconsideration of the changes adopted in the *Second Report and Order*. Cisco Systems, Inc. (Cisco) requests that the Commission expand the scope of the rule changes that allows manufacturers to provide Part 15 information statements in alternative forms to

[1] *See Second Report and Order and Memorandum Opinion and Order* in ET Docket No. 01-278, 18 FCC Rcd 14741 (2003).

include the compliance information statement supplied with equipment authorized under the Declaration of Conformity (DoC) procedure.[2] G.E. Interlogix, Inc. requests that the Commission reconsider its decision on remote control devices that prohibits installers of security systems from exceeding the five second limit on manual and automatic transmissions in Section 15.231 during the equipment set-up process.[3] The Information Technology Industry Council requests that the Commission: 1) make additional changes to the labeling requirements for self-authorized equipment to permit electronic labeling for equipment subject to DoC as it does for software defined radios; 2) allow manufacturers to provide the compliance information in alternative forms for equipment authorized under the DoC procedure as is now permitted for Part 15 information statements; 3) extend the relaxed equipment authorization requirements for low-frequency, low-powered intentional radiators to higher frequencies; and 4) insist that foreign regulators accept accreditations of United States laboratories, including manufacturers' laboratories.[4]

III. DISCUSSION

A. DoC compliance information statements

4. In the *Second Report and Order*, the Commission modified the rules to permit Part 15 information statements to be placed in the instruction manual of a device when the manual is provided in formats other than paper, such as on a computer disk or over the Internet.[5] The Commission stated that these changes will provide increased flexibility to manufacturers, result in cost savings to the industry and could enhance access to the disabled community because computers could "read" information to the user or magnify it for easier viewing. In recognition of the fact that some persons do not have access to a computer or the Internet and would not have the capability of reading instruction manuals in alternative formats, the Commission allowed warning statements to be provided in alterative forms only when the instruction manual is provided in the same alternative form and the user can reasonably be expected to have the capability to access information in that form. For example, warning statements may be provided in a manual on a CD-ROM or other type of computer disk when no paper manual is provided, and the equipment either has the capability of reading the disk or is used with equipment that is capable of reading the disk. Warning statements may be provided in a manual on the Internet only when the manual is provided solely over the Internet and the equipment will be used with Internet access. These rule changes applied to information statements required by Sections 15.21, 15.27(a) and 15.105(e) of the rules.

5. In their petitions, Cisco and ITI note that the rule changes adopted in the *Second Report and Order* that allow information statements to be supplied in alternative forms do not apply to the

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[2] *See* Cisco motion for partial reconsideration (Cisco petition) dated September 12, 2003 at 3.

[3] *See* G.E. Interlogix petition for reconsideration (G.E. Interlogix petition) dated January 8, 2004 at 4.

[4] *See* ITI motion for reconsideration and clarification (ITI petition) dated September 17, 2003 at 2-4.

[5] *See Second Report and Order* at 14758. Part 15 requires certain information to be included in the instruction manual for a device, including a statement that unauthorized modifications to a device could void the user's authority to operate it. In addition, the manual for a digital device must include a warning of the potential for interference to other devices and a list of some steps that could possibly eliminate the interference. *See* 47 C.F.R. §§ 15.21, 15.27 and 15.105.

compliance information statements that are required by Section 2.1077 to be supplied with equipment authorized under the DoC procedure.[6] Cisco states that the omission of Section 2.1077 from the same treatment of other information was not recognized by the industry during the filing of comments during the FCC proceeding. It states that in reviewing the requirements and comparing the various types of information, it cannot identify any good reason why the DoC compliance information statement should not be included among the documents that manufacturers can provide to end users over the Internet. Cisco further states that because manufacturers cannot provide this information over the Internet, manufacturers and users will bear the cost of providing the information with a product with no clear regulatory benefit to anyone. ITI requests that the Commission revise Section 2.1077 to make the rule consistent with the revised Part 15 rules for providing information statements in alternative formats.

6. The exclusion of DoC compliance statements from the same treatment as Part 15 information statements was an inadvertent omission by the Commission that, as Cisco notes, was not recognized by industry at the time comments were filed in this proceeding.[7] We agree with Cisco and ITI that permitting DoC compliance information statements to be provided in alternative formats will offer increased flexibility to manufacturers and result in cost savings to the industry. Accordingly, we are amending Section 2.1077 of the rules to allow DoC compliance statements to be provided in formats other than paper, such as on a computer disk or over the Internet. Consistent with the Commission's actions in the *Second Report and Order* for Part 15 information statements, we will allow compliance information statements to be provided in alterative forms only when the instruction manual is provided in the same alternative form and the user can reasonably be expected to have the capability to access information in that form. These requirements will help ensure that the DoC compliance information statement is accessible to all persons using a given device.

B. Remote control device transmission duration limits

7. In the *Second Report and Order*, the Commission denied a request by G.E. Interlogix to modify Section 15.231 of the rules to allow remote control devices to be operated with transmission durations greater than five seconds during equipment setup. This section requires a device to cease transmissions within five seconds after being activated automatically or after a manually operated switch that activates it is released. G.E. Interlogix had requested that the Commission allow longer duration transmissions in comments filed in response to the *Notice*, stating that sophisticated systems often require longer transmissions to initialize them.[8] The Commission denied this request in the *Second Report and Order*, stating that G.E. Interlogix had not shown why the existing limits were inadequate for the situations it identified.[9]

8. In its petition for reconsideration, G.E. Interlogix states that it met with Commission representatives in January 2001 and discussed the problem of security systems requiring a lengthier setup period for new systems than could be accomplished within the five second period permitted under Section 15.231. G.E. Interlogix states that it advised the Commission staff that while setup transmissions

[6] *See* Cisco petition at 2.

[7] *Id.*.

[8] *See Notice of Proposed Rule Making and Order* in ET Docket No. 01-278, 16 FCC Rcd 18205 (2001) and G.E. Interlogix comments at 2-3.

[9] *See Second Report and Order* at p.14749.

can, in theory, be performed in the manual mode, in practice, systems are designed for an automatic download of setup data and the five second transmission limitation can be too restrictive for certain sophisticated systems. It further advised that system setup generally occurs only once, but in rare cases such as a property changing hands or system failure, a system must be reinitialized. G.E. Interlogix submitted a copy of an interpretation letter issued by staff at the Commission's Laboratory stating that a transmission that exceeds the five second limit in Section 15.231 is permissible to initiate a system, provided it occurs only once. G.E. Interlogix states that while its comments filed in response to the *Notice* requested that the Commission codify this interpretation, it did not supply supportive data because it considered the request to be non-controversial. It states that setup transmissions used by all wireless security systems are not control signals in the strict sense, nor are they recognition codes, and the Part 15 rules were never specifically designed to account for them. It further states that setup transmissions are not performed by the user of the security equipment and are not transmissions that occur during the functioning of the security system. Rather, they are transmissions that provide a system with the initial programming required for operation. GE Interlogix states that in a sophisticated security system the setup process can exceed five seconds because a low data rate is required to reliably transmit the setup information at the low signal levels permitted by the rules. It requests that the Commission: 1) reconsider its decision in the *Second Report and Order* and permit transmission of setup information for security systems in excess of five seconds, provided such transmissions are under the control of a professional installer, and 2) clarify that data transmissions during a setup procedure are permitted under Section 15.231. G.E. Interlogix notes that none of its systems use setup transmissions in excess of ten seconds.[10]

9. The Commission denied G.E. Interlogix's request to modify Section 15.231 in the *Second Report and Order* because it did not provide sufficient justification for a change to this rule section. Based upon the additional information supplied in G.E. Interlogix's petition, we are persuaded that there is, in some cases, a need to allow installers of complex security systems to initiate transmissions of greater than the five second duration permitted by Section 15.231. We are therefore amending Section 15.231 of the rules to allow setup transmissions, including data, of greater than the five second limit in Sections 15.231(a)(1) and (a)(2), provided such transmissions are under the control of a professional installer. To minimize the likelihood of interference to authorized users of the spectrum, we will limit setup transmissions to no more than ten seconds, which G.E. Interlogix indicates is adequate for all of its systems.[11] This action will allow manufacturers greater flexibility in the design of complex security systems while resulting in a negligible increase in interference potential for these systems because the longer duration transmissions are only five seconds longer than the rules currently allow and will generally occur only once per system.

C. Declaration of Conformity (DoC) labeling

10. In the *Second Report and Order*, the Commission simplified the labeling requirements for equipment authorized under the DoC procedure.[12] For most devices authorized under the DoC procedure, the changed rule requires that the label show the FCC logo and the equipment trade name and

[10] *See* G.E. Interlogix petition at 4, footnote 1.

[11] *Id.*

[12] *See Second Report and Order* at p. 14753.

model number.[13] The Commission also clarified in the *Second Report and Order* that the trade name and model number may be placed on the equipment in a location other than on the DoC label when necessary. In addition, the Commission denied a request by ITI and other parties to permit electronic labeling for equipment authorized under the DoC procedure. In denying ITI's request, the Commission stated that the Part 2 rules permit electronic labeling for software defined radios because there is sometimes a need for a third party to change the identification number of a radio in the field when changes are made to the software that affect the device's operating frequency, modulation type or maximum output power.[14] This permits the identification number to be changed without physical re-labeling of a radio. The Commission stated that none of the comments in this proceeding have shown that there is a similar need to allow this capability in equipment subject to DoC.

11. In its petition, ITI repeats its request that the Commission permit electronic labeling for equipment subject to DoC.[15] It states that this change would reduce costs for products that already have displays because the identifying marks could be maintained in memory and displayed on startup or on demand while the product is operating. ITI further states that electronic labeling could be used by the Commission for product approval purposes such as the difficult administrative task of tracking grant notices.

12. As indicated above, the Commission considered and rejected ITI's request to allow electronic labeling of equipment subject to DoC in the *Second Report and Order*. ITI has not provided any new information in its petition that would lead us to change our decision on this subject. The revised DoC labeling rules require only the FCC logo, equipment trade name and model number on a device, and manufacturers already place a trade name and model number on virtually all devices made. Therefore, the DoC labeling requirement is not a significant burden. Further, there is not a need to change the identification information for devices subject to DoC after manufacture as there is for software defined radios where the operating parameters and FCC identification number may be changed post-manufacture.[16] ITI has also not shown how electronic labeling could be used by the Commission for product approval purposes, such as tracking grant notices, because there is no grant notice for equipment subject to DoC. Accordingly, we decline to allow electronic labeling for equipment subject to DoC.

D. Other matters

13. *Very low power intentional radiators*. In the *Second Report and Order*, the Commission changed the equipment authorization requirement from certification to verification for intentional radiators operating below 490 kHz in which all emissions are at least 40 dB below the Part 15 limit.[17]

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[13] *See* 47 C.F.R. § 15.19(b)(1). The label for a personal computers that was assembled from tested components must also include the phrases, "Assembled from tested components" and "Complete system not tested".

[14] *See* 47 C.F.R. § 2.925(e).

[15] *See* ITI petition at 2.

[16] Devices subject to DoC include VCRs, personal computers and peripherals, and non-broadcast radio receivers that tune in the range of 30-960 MHz.

[17] *See Second Report and Order* at p. 14756. Certification requires the manufacturer to have the equipment tested for compliance, then file an application and wait for approval before the equipment can be marketed. *See* 47 C.F.R. §§ 2.803, 2.907 and 2.1033. Verification requires the manufacturer to have the (continued....)

The Commission stated that because the interference potential of such devices is extremely low, requiring certification seems to be an unnecessary burden on manufacturers.[18] ITI states that it supports the Commission's decision to eliminate the certification requirement for very low powered intentional radiators, but requests that the Commission consider extending the verification process to higher frequency bands.[19] However, ITI did not provide specific information on the operating parameters (*e.g.*, frequency range or output signal level) for intentional radiators that that it believes should be subject to verification or provide technical justification for making changes to the authorization requirement for certain intentional radiators. Based on the lack of a specific request and record on this issue, we decline to make further changes to the authorization requirements for very low power intentional radiators at this time.

14. *Accreditation of test laboratories.* In the *Second Report and Order*, the Commission eliminated the requirement for an accredited laboratory to file a description of its measurement facilities with the Commission if the accrediting organization submitted certain information about the laboratory to the Commission.[20] The purpose of this change was to reduce the burden on laboratories by eliminating the need to file duplicate information with both the Commission and an accrediting organization. ITI requests that in addition to this change, the Commission insist that foreign regulators also accept similar accreditations from U.S. laboratories, including manufacturer's laboratories, but it did not identify any specific rule changes that the Commission could make to accomplish this objective. This issue is more appropriately addressed in the context of negotiating mutual recognition agreements or arrangements (MRAs) with other administrations than in this proceeding. We therefore decline to make any rule changes concerning the acceptance of U.S. laboratory accreditations by foreign regulators.

IV. PROCEDURAL MATTERS

15. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA),[21] requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."[22] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[23] In addition, the term "small business" has the same meaning as the term "small business concern" under the

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equipment tested and to retain certain information on file. No application filing is required for verification and the equipment may be sold as soon as it is found to comply. *See* 47 C.F.R. §§ 2.902 and 2.955.

[18] *See Second Report and Order* at p. 14756.

[19] *See* ITI petition at 3.

[20] *See Second Report and Order* at p. 14762.

[21] The *RFA*, *see* 5 U.S.C § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1966) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[22] 5 U.S.C. § 605(b).

[23] 5 U.S.C. § 601(6).

Small Business Act.[24] A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

16. The *Second Report and Order* modified the rules to allow Part 15 information statements to be provided to the user of equipment in alternative forms, such as on a CD-ROM or over the Internet. The *Second Report and Order* also denied a request by G.E. Interlogix to allow security system setup transmissions of greater duration than the five second limit currently in Section 15.231(a) of the rules. A Final Regulatory Flexibility Analysis was incorporated in the *Second Report and Order*.[25] Following publication of the *Second Report and Order*, Cisco and ITI filed their petitions seeking to allow the compliance information statement for equipment authorized under the DoC procedure to be provided in alternative forms. G.E. Interlogix filed a petition requesting that the Commission reconsider its denial of G.E. Interlogix's request to permit longer duration transmissions during the setup of security systems. In this *Memorandum Opinion and Order* we are amending the rules to allow DoC compliance information statements to be included in alternative forms and to allow longer duration setup transmissions for security systems.

17. These amendments to the rules will affect manufacturers of radio frequency devices that are authorized under the DoC procedure and manufacturers of security systems, and it is the Commission's belief that many of these manufacturers are small businesses. The changes in this *Memorandum Opinion and Order* are deregulatory in nature because they eliminate the need for manufacturers to supply paper statements with equipment subject to DoC and allow greater flexibility in the setup of security systems. For this reason, these changes will not result in a "significant economic burden" on manufacturers. Therefore, we certify that the amendments included in this *Memorandum Opinion and Order* will not have a significant economic impact on a substantial number of small entities.

18. The Commission will send a copy of the *Memorandum Opinion and Order*, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.[26] In addition, the *Memorandum Opinion and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the Federal Register.[27]

19. For further information regarding this *Memorandum Opinion and Order*, contact Mr. Hugh L. Van Tuyl, Office of Engineering and Technology, (202) 418-7506, e-mail Hugh.VanTuyl@fcc.gov.

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[24] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[25] *See* 68 FR 68531, 68541, December 9, 2003.

[26] *See* 5 U.S.C. § 801(a)(1)(A).

[27] *See* 5 U.S.C. § 605(b).

V. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED that pursuant to the authority contained in Sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f) and 303(r), this Memorandum Opinion and Order IS ADOPTED and Parts 2 and 15 of the Commission's Rules ARE AMENDED as set forth in the attached appendix effective 30 days after publication in the Federal Register.

21. IT IS FURTHER ORDERED that pursuant to the authority contained in Sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f) and 303(r), the motion for partial reconsideration filed by Cisco Systems, Inc. on September 12, 2003 IS GRANTED to the extent indicated herein.

22. IT IS FURTHER ORDERED that pursuant to the authority contained in Sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f) and 303(r), the motion for reconsideration and clarification filed by the Information Technology Institute on September 17, 2003 IS GRANTED IN PART AND DENIED IN PART to the extent indicated herein.

23. IT IS FURTHER ORDERED that pursuant to the authority contained in Sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f) and 303(r), the petition for reconsideration filed by G.E. Interlogix, Inc. on January 8, 2004 IS GRANTED to the extent indicated herein.

24. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Memorandum Opinion and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Marlene H. Dortch
Secretary

APPENDIX: FINAL RULE CHANGES

Part 2 of Title 47 the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 302a, 303, and 336 unless otherwise noted.

2. Section 2.1077 is amended by revising paragraph (c) to read as follows:

§ 2.1077 Compliance information.

* * * * *

(c) The compliance information statement shall be included in the user's manual or as a separate sheet. In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form.

3. The authority citation for Part 15 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 302, 303, 304, 307, 336 and 544A.

4. Section 15.231 is amended by adding a new paragraph (a)(5) to read as follows:

§ 15.231 Periodic operation in the band 40.66 - 40.70 MHz and above 70 MHz.

(a) * * *

(5) Transmission of set-up information for security systems may exceed the transmission duration limits in paragraphs (a)(1) and (a)(2) of this section, provided such transmissions are under the control of a professional installer and do not exceed ten seconds after a manually operated switch is released or a transmitter is activated automatically. Such set-up information may include data.