

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
2010 Biennial Review of Telecommunications) CG Docket No. 10-266
Regulations)
)
)

To: The Commission

**REPLY COMMENTS OF THE
TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

I. INTRODUCTION AND SUMMARY

The Telecommunications Industry Association (TIA) hereby submits reply comments to the Federal Communications Commission (Commission) in the above-captioned proceeding.¹ TIA welcomes the opportunity to offer comments regarding enforcement of the Commission’s Part 68 rules establishing requirements for terminal equipment (TE).

TIA represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshow, business opportunities, market intelligence and world-wide environmental regulatory analysis. For over 80 years, TIA has enhanced the business environment for broadband, mobile wireless, information technology, networks, cable, satellite, and unified communications. TIA is accredited by the American National Standards Institute (ANSI).

¹In the Matter of 2010 Biennial Review of Telecommunications Regulations, *Public Notice*, CG Docket No. 10-266, FCC-10-204 (rel. Dec. 30, 2010).

In these comments, TIA offers support to the proposal from the Administrative Council for Terminal Attachments (ACTA) for the Commission to increase enforcement of Part 68 rules. TIA member companies take seriously, and expend resources to ensure strict compliance with, Part 68 rules and wish to note the anti-competitive effects non-enforcement of these rules will continue to have. To encourage compliance, TIA suggests: (1) diligent enforcement efforts against violators of Part 68 rules; and (2) issuance of an Enforcement Advisory as soon as possible.

I. DISCUSSION

a. TIA Supports the ACTA Request to Heighten Enforcement of Part 68 Rules

TIA supports the proposal from ACTA to heighten enforcement of Part 68.² Not only do TIA members rely on Part 68 certification to market TE to retailers and consumers, but uniform compliance among all TE manufacturers ensures that the Part 68 time-tested framework continues to protect network operators and consumers.

As ACTA notes in its comments, an increasing amount of TE offered in the U.S. today is not in compliance with the Part 68. ACTA also makes clear that the similarities and differences between the American and Canadian markets in this area of regulation indicate that lax

² Part 68 of the Commission rules govern the direct connection of TE to the Public Switched Telephone Network (PSTN), and to wireline carrier-owned facilities used to provide private line services. Part 68 also contains rules concerning Hearing Aid Compatibility and Volume Control (HAC/VC) for telephones, dialing frequency for automated dialing machines, source identification for fax transmissions, and technical criteria for inside wiring. 47 C.F.R. Part 68.

enforcement of Part 68 rules in the U.S. may be a significant factor accounting for the relatively recent divergence in the number of certifications annually between the two countries. ACTA also describes the increasing amount of TE products in the U.S. that do not display required labeling and that are not listed in the ACTA database of certified TE.³

TIA notes that while it is difficult to quantify the costs of non-enforcement to those who do comply with Part 68, manufacturers abiding by Part 68 rules expend significant resources ensuring compliance. Without enforcement of Part 68 rules, the Commission is discouraging the considerable efforts associated with company-internal testing and accredited Telecommunications Certifications Bodies (TCBs). Furthermore, anything short of robust enforcement of Part 68 rules is very likely to create a “sanctuary policy” upon which violators may unreasonably rely; this may have the perverse effect of *encouraging* non-compliance. These factors will culminate to form an unstable marketplace that is unlikely to be invested in, and – more importantly – that the consumer cannot trust. In short, failure by the Commission to enforce Part 68 rules is a disservice to the public interest.

TIA fully supports ACTA in its suggestion that educational initiatives that emphasize compliance and the process for registration in the ACTA database will prompt some non-

³In its comments, ACTA notes that it has brought this issue to the Commission’s attention multiple times, yet the Commission has not yet responded. ACTA Comments *at* 4.

compliant companies to reverse course.⁴ TIA also recommends two other steps that are very similar to the Commission's recent activity discouraging cellular jamming devices.⁵

First, the Commission should steadfastly seek out and respond to evidence of Part 68 rule violations when brought to its attention and hold those in violation fully accountable through enforcement proceedings. Through enforcement of existing rules, an equal playing field can be established for the TE market, fostering fair competition. Further, by bringing Part 68 violators into compliance, all stakeholders – including the violators, who, as noted above, may be unjustly relying on non-compliance in their business models – will benefit from an environment with increased regulatory certainty. An aggressive public stance by the Commission against Part 68 non-compliance will incite violators to comply with Part 68. Alternatively, some violators will stop marketing products that are not compliant. TIA notes that when the Commission created ACTA, it required the adoption of a standard with criteria identical to Part 68,⁶ after which it could be modified by ACTA to reflect the rapid pace of change in network and TE technologies, which the Commission would then enforce.⁷ The most current version of this technical criteria is TIA-968-B, most recently revised in April of 2010.

⁴*Id.*

⁵See *In the Matter of Shenzhen Tangreat Technology Co., Ltd.*, Order to Show Cause, EB Docket No.: 10-247 (Feb. 9, 2011). See also Federal Communications Commission, *Retailers Advised that the Marketing or Sale of Devices Designed to Block, Jam, or Interfere with Authorized Radio Communications Is Strictly Prohibited in the U.S.*, Enforcement Advisory No. 2011-03 (rel. Feb. 9, 2011).

⁶ In the Matter of 2000 Biennial Review of Part 68 of the Commission's Rules and Regulations, *Report and Order*, CC Docket No. 99-216 at ¶ 77 (rel. Dec. 21, 2000).

⁷ The Commission explicitly noted that “[p]rivatizing the equipment registration process will permit the Commission to focus on enforcement of the industry-established technical criteria for terminal equipment.” *Id.* at ¶ 88.

Second, the Commission should, as soon as possible, issue an Enforcement Advisory reminding stakeholders of the significance of Part 68 rules, the penalties for non-compliance, and recommendations to companies currently in violation of the rules. TIA believes that this will give fair warning to those who are active in the TE marketplace and yet are inexplicably not aware of Part 68 rules and those who simply do not value the Commission's requirements.

VI. CONCLUSION

For the foregoing reasons, TIA urges the Commission to adopt policies consistent with the recommendations above.

Respectfully submitted,

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