

## ADMINISTRATIVE COUNCIL FOR TERMINAL ATTACHMENTS (ACTA)

MEETING DATE: March 13, 2003

TITLE: Draft OP&P Version 1.4

SOURCE\*: ACTA Secretariat

PURPOSE: Decision/**Discussion**/Informative (choose one)

DISTRIBUTION TO: ACTA All

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### ABSTRACT

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The following are draft changes to the ACTA Operating Principles & Procedures necessitated by the administrative changes instituted by the Secretariat. The document is for discussion at the February 13, 2003 ACTA Executive Meeting.

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**Administrative Council for Terminal Attachments (ACTA)**  
**Operating Principles and Procedures**  
**Version 1.43**

ACTA is sponsored by the  
Telecommunications Industry Association and the  
Alliance for Telecommunications Industry Solutions

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## 1. INTRODUCTION

The Administrative Council for Terminal Attachment (“ACTA”) was established pursuant to the Federal Communication Commission’s (“FCC”) Report and Order in the 2000 Biennial Review of Part 68 of the Commission’s Rules and Regulations, CC Docket No. 99-216, FCC 00-400, adopted November 9, 2000 and released December 21, 2000 (“Order” or “R&O”). The Order privatized the process by which technical criteria for the prevention of harm are established for customer premises or terminal equipment that may be sold for connection to the telephone network, and for the approval of such equipment to demonstrate compliance with the relevant technical criteria. The Order directed the industry, through the co-sponsorship and support of the Telecommunications Industry Association (“TIA”) and the Alliance for Telecommunications Industry Solutions (“ATIS”) to establish the ACTA as the open body that would assume the Commission’s Part 68 role for those items privatized in the Order. (Section 68.602) The initial ACTA meeting was held on May 2, 2001.

## 2. CHARTER: MISSION, SCOPE and RESPONSIBILITIES

### 2.1 Mission

The Administrative Council for Terminal Attachment (“ACTA”, “Administrative Council” or “Council”) is an open organization with a mission to: (1) adopt technical criteria for terminal equipment to prevent network harm (as defined in Section 68.3) through the act of publishing such criteria developed by the American National Standards Institute (“ANSI”) accredited standards development organizations; and (2) establish and maintain database(s) of equipment approved as compliant with the technical criteria.

### 2.2 Scope

The Administrative Council assumes the coordination and management role for the adoption and publication of technical requirements for terminal equipment, and the associated database(s) as further detailed in Section 2.3. The Administrative Council will not make substantive technical decisions regarding the development of technical criteria.

### 2.3 Responsibilities

The Administrative Council’s major responsibilities shall be to perform the following in an equitable and nondiscriminatory manner not permitting any entity or segment of the industry to gain a competitive advantage:

- (1) Provide public notice for thirty (30) days of intent to adopt technical criteria as submitted by an ANSI-accredited standards development organization. (47 C.F.R. § 68.608)
- (2) Adopt and publish technical criteria for customer premises equipment developed by ANSI-accredited standards development organizations. (47 C.F.R. § 68.608)
- (3) Operate and maintain a database of equipment, approved as compliant with the technical criteria, meeting the requirements of the FCC and U.S. Customs Service for enforcement purposes. (47 C.F.R. § 68.610)
- (4) Ensure the database is created and maintained in an equitable and nondiscriminatory manner not permitting any entity or segment of the industry to gain a competitive advantage. (47 C.F.R. § 68.610)
- (5) Establish and maintain an appropriate labeling methodology for terminal equipment. The labeling methodology must meet the requirements of the FCC and the US Customs Service

- for enforcement purposes, as well as provide consumers a method to identify the source and model number of the terminal equipment. (47 C.F.R. § 68.612)
- (6) File with the FCC a detailed report of the database structure and associated procedures. (47 C.F.R. § 68.610)
  - (7) Provide information to the public and respond to inquiries from the public regarding ACTA-published technical criteria and Part 68 technical criteria. (R&O ¶ 53)
  - (8) Coordinate the Industry's notification of technical criteria projects to avoid duplication of effort. (R&O ¶ 55)
  - (9) Manage such other tasks as necessary and within the Administrative Council's scope that were formerly part of the FCC's Part 68 functions.
  - (10) Ensure that the management, activities and decisions of the Administrative Council be independent from all external influences. However, the Administrative Council may arrange for some of its administrative functions (Secretariat, database, etc.) to be performed by external organizations, including the sponsoring organizations, as allowed in the Report and Order, providing that the arrangement that it enters with these organizations is clearly and publicly delineated. (R&O ¶ 39)
  - (11) Maintain a list of agents for service (47 C.F.R. § 68.418)
  - (12) Specify Customer Instructions (47 C.F.R. § 68.218 and 68.324)
  - (13) Provide information to the public concerning the ACTA processes and procedures.

### **3. MEMBERSHIP AND COUNCIL ORGANIZATION**

#### **3.1 Membership**

Membership in the ACTA is open to any organization, company or group having an interest in the business of the Council. The Membership of the ACTA, at large, shall be represented on the Council by the "Interest Segment Representatives" (as defined below in Section 3.2).

##### **3.1.1 Member Registration**

Members shall register with the ACTA Secretariat by submitting a written correspondence declaring an Interest Segment, identifying a "Company/Organization Voting Participant" (as defined below in 3.1.2) and providing contact information for the Company/Organization Voting Participant.

##### **3.1.2 Company/Organization Voting Participant**

Each Member shall identify a Company/Organization Voting Participant as that company/organization's primary contact for ACTA-related business. Company/Organization Voting Participants shall vote for the Interest Segment Representatives and Alternate to represent a given Interest Segment on the Council.

#### **3.2. Council Organization - Size and Structure**

The Administrative Council shall be comprised of:

- (1) six Interest Segments, each having two voting Interest Segment Representatives and one non-voting alternate;
- (2) non-voting Invited Observers; and

(3) a non-voting chair.

### **3.2.1 Interest Segments**

Voting members shall be categorized as follows:

- (A) Local Exchange Carriers ("LEC")
- (B) Interexchange Carriers ("IXC")
- (C) Terminal Equipment Manufacturers ("TEM")
- (D) Network Equipment Manufacturers ("NEM")
- (E) Testing Laboratories ("LAB")
- (F) Other Interested Parties (e.g., consumer groups and associations representing individuals with disabilities) ("OIP")

### **3.2.2 Invited Observers**

The non-voting category shall be for "Invited Observers." This category shall initially include Industry Canada and Mexican Representatives. The Administrative Council may agree to add other individuals, organizations or entities to the Invited Observers category provided the individual, organization or entity would not appropriately fall into one of the Interest Segments identified in Section 3.2.1.

## **3.3 Interest Segment Representatives and Alternates**

### **3.3.1 Selection Process**

Interest Segment Representatives and Alternates shall be elected by a plurality of votes from their respective Interest Segment Company/Organization Voting Participants. Notice of all elections shall be given via the ACTA Web Site and the appropriate Interest Segment e-mail exploder lists. Nominations shall be accepted from all interested parties provided the nomination is accompanied by: (1) a resume or other document detailing the nominee's applicable experience and (2) a letter of support from the nominee's employer. Ballots shall be distributed and submitted electronically and tallied pursuant to a predefined process detailed in the notice of election. The ACTA Secretariat shall announce the election results. In the event of a tie between any nominees, an election between the tied nominees shall be conducted.

### **3.3.2 Terms of Office**

Interest Segment Representatives and Alternates shall be elected to serve a two-year term or until a successor is elected. An individual shall be limited to serving two consecutive two-year terms, unless there is no interest from another individual within the respective interest segment in which case an individual may serve more than two consecutive two-year terms.

### **3.3.3 Responsibilities**

Interest Segment Representatives and Alternates are expected to participate in all Administrative Council activities and to represent the interests of their respective interest

segments. Interest Segment Representatives and Alternates are expected to be prepared and knowledgeable of the issues before the Council in order to allow for an effective discussion, examination and ultimate resolution. The Interest Segment Alternates shall fully participate but only vote in the absence or disability of either Representative from that Interest Segment.

#### **3.3.4 Vacancies**

In the event that an Interest Segment Representative position becomes vacant, the Alternate for that given Interest Segment shall assume the Representative position for the remainder of the vacated term. In the event that an Alternate position becomes vacant or a Representative position becomes vacant and there is no Alternate to assume the position, the Administrative Council shall conduct an election to fill the vacated term.

### **3.4 Chair**

#### **3.4.1 Selection Process**

The chair shall be elected by a plurality of the Interest Segment Representatives present at the time of the election. No proxies will be accepted. Notice of an election for chair shall be given via the ACTA Web Site and the Interest Segment e-mail exploder lists. Nominations shall be accepted from all interested parties provided the nomination is accompanied by: (1) a resume or other document detailing the nominee's applicable experience and (2) a letter of support from the nominee's employer. The ballot shall be conducted in secret and the ballots shall be tallied and the winner announced by the ACTA Secretariat. In the event of a tie between any nominees, an election between the tied nominees shall be conducted.

#### **3.4.2 Term of Office**

The chair shall be elected to serve a two-year term or until a successor is elected. An individual shall be limited to serving two consecutive two-year terms, unless there is no interest from another individual in which case an individual may serve more than two consecutive two-year terms.

#### **3.4.3 Responsibilities**

The chair shall preside at all meetings of the Administrative Council after the first and ensure that the principles and procedures set forth in this document are adhered to. The chair shall also perform such other duties and exercise such other powers as may be necessary to enact the business of the Administrative Council or as prescribed from time to time by the Administrative Council. The chair shall not use the position to influence the decision-making process of the Administrative Council.

#### **3.4.4 Vacancy**

In the event that the chair position becomes vacant, the Administrative Council may temporarily appoint an acting-chair to preside until the next full meeting of the



Administrative Council during which an election must take place. The acting-chair must not be an Interest Segment Representative or Alternate.

## **4. MEETINGS**

Meetings of the Administrative Council may be face-to-face or via conference call and virtual meeting technologies. Meetings are open to all interested parties. Face-to-face meetings of the Administrative Council shall typically be held in the Washington, D.C. metropolitan area.

### **4.1 Meeting Schedule**

The Administrative Council shall establish a meeting schedule based upon need but in no event to be less than four meetings per year. Once determined, the meeting schedule shall be posted to the ACTA web site.

### **4.2 Quorum Requirement**

A quorum for conducting official business of the ACTA shall consist of:

- A. At least one representative from a majority of the interest segments, and
- B. A majority of the total number of Interest Segment Representatives.

Proxies are not permitted.

### **4.3 Meeting Notification and Agenda**

A meeting notification and draft agenda shall be posted to the ACTA web site at least 30 days in advance of all regularly scheduled ACTA meetings.

### **4.4 Contributions to Meetings**

All contributions and proposals for ACTA action shall be submitted to the Secretariat no later than ten days prior to the meeting at which action is anticipated. The Secretariat will distribute all contributions received to the entire Council membership no later than one week prior to the meeting at which action is anticipated. Contributions submitted after that deadline may be deferred for later action.

### **4.5 Special/Emergency Meetings**

Special or Emergency meetings may be called by the chair or by the written request of at least one-third of the Interest Segment Representatives. The purpose of the meeting shall be stated in the meeting notification and, except in cases of emergency, the meeting notification should be issued at least 30 days in advance of face-to-face meetings and at least 10 days in advance of conference calls.

### **4.6 Meeting Notes**

Meeting notes shall be recorded for all ACTA meetings. The meeting notes shall serve as the official record. The meeting notes shall include, at a minimum, an agenda as amended and approved at the meeting; an attendee register; and a summary of the points noted, agreements reached and action items for each agenda item. The meeting notes shall be approved by the chair and then published on the ACTA web site within fifteen (15) business days from the close of the meeting.

## 5. VOTING

Each Interest Segment Representative, or an Alternate when acting as an Interest Segment Representative in the absence or disability of that Representative, shall have one vote in all ACTA matters. Voting shall be conducted by the chair. Action shall require both: (1) a quorum, and (2) two-thirds of votes cast, not counting abstentions.

## 6. SPONSORS and SECRETARIAT SUPPORT

### 6.1 Sponsors

The Telecommunications Industry Association ("TIA") and the Alliance for Telecommunications Industry Solutions ("ATIS") shall jointly sponsor the ACTA.

#### 6.1.1 Responsibilities

The sponsors shall ensure that the ACTA is populated in a manner consistent with the criteria of the American National Standards Institute for a balanced and open membership. The sponsors shall also fulfill the Secretariat functions as defined by the ACTA.

#### 6.1.2 Term

TIA and ATIS shall serve in the roles of sponsor of the ACTA for four years from the effective date (January 24, 2001) of the FCC rules assigning the role (47 C.F.R. § 68.602). TIA and ATIS shall continue in the roles of sponsors beyond the initial four-year term unless the Administrative Council directs otherwise.

### 6.2 Secretariat Support

The sponsors shall provide the administrative, secretarial and other necessary support as defined by the ACTA and pursuant to written agreement. ~~At a minimum, the Secretariat staff shall include an ACTA Director.~~

#### ~~6.2.1 ACTA Director~~

~~The ACTA Director shall attend all meetings of the Council and have primary responsibility for carrying out the directives of the ACTA, including the day-to-day management of its activities and oversight of all Secretariat duties. The ACTA Director shall ensure that the Council abides by these Operating Principles and Procedures and may facilitate Council meetings in the absence of the chair. The ACTA Director should have a comprehensive and working knowledge of the telecommunications industry and the terminal equipment certification process.~~

~~The Director's essential duties and responsibilities will include:~~

- ~~—Provide ongoing support, guidance, and advice to the Council in the development, implementation and achievement of the strategic objectives and direction.~~
- ~~Develop principles and procedures for operating open industry forums and advise Council leadership and participants with respect to the implementation of these principles and procedures.~~
- ~~Ensure adherence to the Council's charter~~

~~and administrative practices, issue management and organizational structure reports and recommend appropriate action to improve overall effectiveness and efficiency.~~

- ~~—Identify and conduct detailed studies on a variety of topics to assist the Council with strategic direction and help to ensure its long-term viability.~~
- ~~—Work closely with the Council to identify problem areas and develop and implement appropriate action plans to address these concerns. Support special projects the Council may want to undertake and present additional areas of support the Secretariat may provide the Council.~~
- ~~—Administer appropriate Secretariat support. Identify specific support requirements of the Council, train staff to adequately meet those requirements and supervise the staff directly responsible for providing these services. When requested or when necessary and appropriate, assume leadership role(s) that enable progress and consensus resolutions to be achieved.~~
- ~~—Develop the budget and manage the finances of the Council, including identification and development of cost recovery mechanisms and models, development of cost/benefit analysis, recommendations of dues amount alternatives and resultant impacts, and identification of potential problems and pre-active steps to avoid such problems. Provide periodic reports on Council costs, annualize results and secure appropriate funding for Secretariat support.~~
- ~~—Initiate action plans that increase awareness of the Council and the issues being addressed. Develop appropriate mechanisms such as brochures, newsletters and Part 68 web home page material that promote the value of the Council, provide information about its mission and objectives and serve as an information resource of the Council's activities and resolutions for the industry. Also included in this effort is the development and implementation of the Part 68 web site and links to other appropriate sites (i.e., ATIS, TIA.)~~
- ~~—Represent and speak on behalf of the Council at both national and international conferences, seminars and meetings as well as before the FCC and other government organizations and agencies at the direction of the Council.~~
- ~~—The ACTA Director shall not use the position to unduly influence the decision-making process of the Administrative Council.~~

#### **6.2.12 Secretariat Administrative Support**

The Secretariat duties shall include those assigned by the ACTA. The following is an illustrative, not exclusive list.

- ◆ Maintenance of official Membership and Company/Organization Voting Participants rosters;
- ◆ Development and maintenance of the ACTA Web Site and e-mail exploder lists;
- ◆ Meeting planning and registration;
- ◆ Publish technical criteria;
- ◆ Publish informational documents;
- ◆ Document distribution and publication;
- ◆ Recording meeting notes; and
- ◆ Other duties as assigned by the ACTA

### **6.2.23 Database Maintenance and Support**

The Secretariat duties, in the context of the database maintenance and support, shall include:

- ◆ Processing of forms/applications
- ◆ Processing of SDOCs and TCB certifications
- ◆ Processing requests for Grantee codes
- ◆ Ensuring public accessibility to necessary information

### **6.2.3 Additional Responsibilities**

The ACTA Secretariat shall attend all meetings of the Council and have primary responsibility for carrying out the directives of the ACTA, including the day-to-day management of its activities and oversight of all Secretariat duties. The ACTA Secretariat shall ensure that the Council abides by these Operating Principles and Procedures and may facilitate Council meetings in the absence of the chair. **The ACTA Secretariat should have a comprehensive and working knowledge of the telecommunications industry and the terminal equipment certification process.**

The Secretariat's essential duties and responsibilities will include:

- ◆ Provide ongoing support, guidance, and advice to the Council in the development, implementation and achievement of the strategic objectives and direction. Develop principles and procedures for operating open industry forums and advise Council leadership and participants with respect to the implementation of these principles and procedures. Ensure adherence to the Council's charter and administrative practices, issue management and organizational structure reports and recommend appropriate action to improve overall effectiveness and efficiency.
- ◆ Identify and conduct detailed studies on a variety of topics to assist the Council with strategic direction and help to ensure its long-term viability.
- ◆ Work closely with the Council to identify problem areas and develop and implement appropriate action plans to address these concerns. Support special projects the Council may want to undertake and present additional areas of support the Secretariat may provide the Council.
- ◆ Administer appropriate Secretariat support. Identify specific support requirements of the Council, **train staff to adequately meet those requirements and supervise the staff directly responsible for providing these services.** When requested or when necessary and appropriate, assume leadership role(s) that enable progress and consensus resolutions to be achieved.
- ◆ Develop the budget and manage the finances of the Council, including identification and development of cost recovery mechanisms and models, development of cost/benefit analysis, recommendations of dues amount alternatives and resultant impacts, and identification of potential problems and pro-active steps to avoid such problems. Provide periodic reports on Council costs, annualize results and secure appropriate funding for Secretariat support.
- ◆ Initiate action plans that increase awareness of the Council and the issues being addressed. Develop appropriate mechanisms such as brochures, newsletters

and Part 68 web home page material that promote the value of the Council, provide information about its mission and objectives and serve as an information resource of the Council's activities and resolutions for the industry. Also included in this effort is the development and implementation of the Part 68 web site and links to other appropriate sites (i.e., ATIS, TIA.)

- ♦ Represent and speak on behalf of the Council at both national and international conferences, seminars and meetings as well as before the FCC and other government organizations and agencies at the direction of the Council.
- ♦ The ACTA Secretariat shall not use the position to unduly influence the decision-making process of the Administrative Council.

## **7. INTELLECTUAL PROPERTY**

Except as otherwise provided herein, all intellectual property rights (IPR), including without limitation all copyrights, trademarks, service marks, patents and trade secret rights claimed in documents submitted to the ACTA shall remain the property of the submitting party or entity and the ACTA shall not claim any rights thereto. As a condition to submitting documents to the ACTA, however, the submitting party or entity must grant the ACTA a license to reproduce and distribute consistent with the processes defined in Appendix A for technical criteria and Appendix C for informational documents and allow the ACTA to permit third parties a single download of the document, or any portion thereof, for purposes of publication to interested parties.

## **8. ACTA WEB SITE and EXPLODER LISTS**

All ACTA documentation and information shall be distributed electronically via the ACTA Web Site and the e-mail exploder lists.

### **8.1 ACTA Web Site**

The ACTA Web Site homepage is at: [www.part68.org](http://www.part68.org). The web site contains all Council meeting materials (e.g., meeting agenda, contributions, meeting notes, calendar), ACTA publications, and information/instructions regarding the equipment approval process. The ACTA Web Site will also serve as the primary vehicle for the ACTA publication of both proposed technical criteria, pursuant to the 30 day public notice period prescribed in 47 C.F.R. § 68.608, and final adopted technical criteria. The ACTA Web Site will also be the primary vehicle for the ACTA publication of both proposed informational documents and final adopted informational documents.

### **8.2 E-Mail Exploder Lists**

The Secretariat shall provide and maintain exploder lists for email communication and the conduct of ACTA business. Each exploder list, its purpose, and restrictions on its membership are described below:

List Name	Purpose	Restriction
acta-gen	General Notification and Communication to the membership ( <i>e.g.</i> , Council meetings, posted materials)	None – Open to all interested parties including members of lists identified below
acta-isreps	Vehicle for the Council to conduct business and for the Interest Segment Representatives and Alternates, Chair, Secretariat, and Sponsors to communicate with each other.	Limited to Interest Segment Representatives and Alternates, Chair, Invited Observers, Secretariat, and Sponsors
acta-lec	Vehicle for LEC Interest Segment Representatives and Alternates to communicate ACTA business to LEC Interest Segment	Limited to LEC Interest Segment Voting Participants, Representatives and Alternates
acta-ixc	Vehicle for IXC Interest Segment Representatives and Alternates to communicate ACTA business to IXC Interest Segment	Limited to IXC Interest Segment Voting Participants, Representatives and Alternates
acta-nem	Vehicle for NEM Interest Segment Representatives and Alternates to communicate ACTA business to NEM Interest Segment	Limited to NEM Interest Segment Voting Participants, Representatives and Alternates
acta-tem	Vehicle for TEM Interest Segment Representatives and Alternates to communicate ACTA business to TEM Interest Segment	Limited to TEM Interest Segment Voting Participants, Representatives and Alternates
acta-lab	Vehicle for LAB Interest Segment Representatives and Alternates to communicate ACTA business to LAB Interest Segment	Limited to LAB Interest Segment Voting Participants, Representatives and Alternates
acta-oip	Vehicle for OIP Interest Segment Representatives and Alternates to communicate ACTA business to OIP Interest Segment	Limited to OIP Interest Segment Voting Participants, Representatives and Alternates

### 8.2.1 Subscribing to an E-mail Exploder List

Parties may subscribe to an ACTA e-mail exploder list by sending an e-mail to [majordomo@lists.atis.org](mailto:majordomo@lists.atis.org). The subject line of the e-mail must read “subscribe” and the body of the message must read “subscribe <insert list name>”. Subscribing parties will receive a confirmation via e-mail.

Example:      Address to: [majordomo@lists.atis.org](mailto:majordomo@lists.atis.org)  
                 Subject:      subscribe  
                 Body Text:    subscribe acta-gen

### ***8.2.2 Sending a Message to an E-mail Exploder List***

Parties may send e-mail messages to an ACTA e-mail exploder provided that the subject matter is relevant to the work of the Council. The e-mail must: (1) be addressed to "<list name>@lists.atis.org"; (2) contain a descriptive subject line; and, (3) contain information relevant to the work of the ACTA. The ACTA e-mail exploder lists shall not be utilized to disseminate solicitations, product endorsements, proprietary information or other legally sensitive information.

Example:      Address to: acta-all@lists.atis.org

## **9. APPEALS PROCESS**

Individuals and entities possessing directly and materially affected interests and believing that they have been or will be adversely affected by the actions or inaction of the ACTA shall have the right to appeal such action or inaction. However, should the action or inaction at issue be one relating to the activities of a Standards Developing Organization ("SDO") submitting technical criteria to the ACTA, the appeals processes afforded by that SDO must be utilized. Further, should the action or inaction at issue be one relating to the process by which an American National Standard or proposed American National Standard was developed, the American National Standards Institute ("ANSI") appeals process must be utilized.

In the case of action or inaction appropriate for the ACTA appeals process, individuals and entities are encouraged to first approach the ACTA leadership with an informal complaint before pursuing the official appeals process detailed in this section.

### **9.1 Complaint**

The appealing party shall file a written complaint with the Secretariat within thirty days after the date of notification of action or at any time with respect to inaction. The complaint shall state the nature of the objections, including any adverse effects, the section of these Operating Principles and Procedures or other ACTA document that may be at issue, the action or inaction itself, and the specific remedial actions that would satisfy the appealing party's concerns. Previous efforts to resolve the objections and the outcome of each shall be noted.

### **9.2 Response**

Within thirty days after receipt of the complaint, a written response shall be issued to the appealing party by the ACTA chair or the Secretariat specifically addressing each allegation of fact in the complaint.

### **9.3 Hearing**

If the parties are unable to resolve the written complaint informally in a manner consistent with these Operating Principles and Procedures, the Secretariat shall schedule a hearing with an appeals panel on a date agreeable to all participants, giving at least ten working days notice.



#### **9.4 Panel**

The ACTA Secretariat will provide the appealing party a list of individuals who have agreed to be considered as candidates to serve on the ACTA appeals panel. This list will include individuals with standards or other equivalent industry forum experience. The appeals panel shall consist of three individuals who have not been directly involved in the matter in dispute, and who will not be materially or directly affected by any decision made or to be made in the dispute. At least two members shall be acceptable to the appealing party and at least two shall be acceptable to responding party. A questionnaire seeking background information and potential bias will be served on possible candidates for the appeals panel and copies will be made available to the appealing party. Initially, each side, starting with the appealing party, shall alternately strike a name from the list, until only one remains and that candidate shall be the chair of the appeals panel. Each party will then select one other name from the list.

The ACTA Secretariat will provide each member of the appeals panel with a copy of the complaint filed pursuant to section 9.1 above, a copy of these Operating Principles and Procedures, and any meeting notes pertaining to the matter. The appeals panel may serve questions to the parties before the hearing to assist in focusing the issue. Any answers received will be made available to the other party and that party will be allowed to submit a brief response.

No party will communicate with any member of the appeals panel once convened and until a decision has been rendered except as provided for in this section 9.

#### **9.5 Conduct of Hearing**

The appealing party has the burden of demonstrating adverse effects, improper actions or inactions, and the efficacy of the requested remedial action. The respondent has the burden of demonstrating that the Council and the Secretariat took all actions in compliance with these Operating Principles and Procedures and that the requested remedial action would be ineffective or detrimental. Each party may adduce other pertinent arguments, and members of the appeals panel may address questions to individuals.

The hearing shall be conducted in an informal manner and subject to such rules as the appeals panel sets forth. The appeals panel and the parties shall not be bound by any formal rules of evidence. Representatives of other interested parties shall be allowed to observe the hearing but will not be permitted to directly participate unless requested to participate by the appeals panel.

#### **9.6 Decision**

The appeals panel shall render its decision in writing within thirty days, stating findings of fact and conclusions, with reasons therefore, based on a preponderance of the evidence.

Consideration may be given to the following position, among others, in formulating the decision: (1) finding for the appealing party, remanding the action to the Council or the Secretariat with a specific statement of the issues and facts in regard to which fair and equitable action was not taken; (2) finding for the respondent, with a specific statement of the facts that demonstrate fair and equitable treatment of the appealing party and the party's objections; (3) finding that new, substantive evidence has been introduced, and remanding the entire action to the Council or the Secretariat for appropriate reconsideration.



### **9.7 Further Appeal**

Any party believing that a fair and equitable decision was not rendered through the above appeals process may appeal to the Federal Communications Commission as provided for in 47 C.F.R. § 68.614.

## **10- PUBLICATION OF DOCUMENTS BY ACTA**

Section 10.1 applies to all documents adopted and published by ACTA. Section 10.2 provides additional requirements for technical criteria documents and Section 10.3 provides additional requirements for informational documents. For purposes of this Section, the term "publish" in the context of technical criteria documents, is limited to the acts of web site posting for public notification and subsequent posting as an ACTA-adopted technical criteria file for free-download from the ACTA web site.

### **10.1 Publication Policies and Requirements**

#### **10.1.1 Product and Technology Neutrality Policy**

The ACTA does not recommend products or technologies. Nothing contained in any document adopted and published by ACTA shall violate this policy or be construed as conferring by implication or otherwise that the ACTA is recommending any specific product or technology to anyone.

#### **10.1.2 Patent Policy**

Nothing contained in any document adopted and published by ACTA should be construed as conferring by implication, estoppel or otherwise, any license or right under any patent, whether or not the use of any information in the ACTA-adopted document necessarily employs an invention of any existing or later issued patent.

#### **10.1.3 Publication Requirements**

Documents adopted and published by the ACTA shall have the ACTA-adopted logo and date affixed to the front cover and shall include the appropriate preface and disclaimer text provided in Appendix E prior to publication as an ACTA-adopted document.

### **10.2 Technical Criteria Documents**

The ACTA shall adopt and publish technical criteria documents submitted by ANSI-accredited standards development organizations. Each individual document in a family of documents that make up a terminal equipment technical criteria standard shall be submitted and processed as a technical criteria document.

#### **10.2.1 FCC Requirements**

The requirements for technical criteria submitted to the ACTA and the requirements for standards development organizations that develop and submit technical criteria to the ACTA have been established by the FCC in 47 C.F.R. § 68.604.

#### **10.2.2 Submission Procedures**

The ACTA submission procedures for technical criteria documents are provided in Appendix A. A sample cover letter for technical criteria document submission is provided in Appendix B.

### **10.2.3 Public Notice**

The ACTA shall place technical criteria proposed for adoption and publication by ACTA on public notice in accordance with the requirements established by the FCC in 47 C.F.R. § 68.608. At the end of the prescribed public notice period, if there are no oppositions, the ACTA shall publish the technical criteria.

### **10.3 Informational Documents**

The ACTA may develop, adopt, and publish informational documents and it may adopt and publish informational documents that are submitted to it by ANSI-accredited SDOs.

The ACTA may discontinue the publication of any ACTA-adopted informational document at any time for any reason. If the formulating committee was an SDO, the ACTA shall notify the SDO of the discontinuance in writing so the SDO can remove the ACTA-adopted logo and ACTA disclaimers prior to re-publication.

#### **10.3.1 Requirements for Informational Documents Submitted by ANSI-accredited SDOs**

Informational documents submitted by ANSI-accredited SDOs to ACTA for adoption and publication shall meet all of the following criteria:

- (1) The document shall be related to terminal equipment as defined in 47 C.F.R. Part 68.
- (2) The purpose and intent of the informational document shall fall within the mission, scope, or responsibilities of the ACTA as defined in the ACTA Principles and Procedures.
- (3) The document shall not conflict with Part 68 or any ACTA-published technical criteria, with any technical criteria submitted to and pending for publication by ACTA, or with ACTA principles, procedures, or methods.
- (4) The document shall be educational or informational in nature, shall not contain any technical requirements, shall be carefully written in a manner such that nothing in the document can be reasonably construed as being an ACTA requirement, and the document shall not contain the words "shall" or "must" unless quoting appropriately cited text containing those words.

#### **10.3.2 Requirements for SDOs Submitting Informational Documents**

The submitting SDO shall be ANSI-accredited and in good standing under the ANSI Standards Committee Method or the Organization Method and shall have been during the development of the submitted document and the submitted document shall have been developed in accordance with applicable ANSI requirements.

SDOs submitting informational documents to the ACTA for adoption and publication are encouraged to conduct an ongoing review of such documents and notify ACTA when information in the document becomes incorrect, outdated, or in conflict with Part 68, technical criteria published by the ACTA, ACTA operating principles and procedures, or ACTA terminal equipment approval methods and procedures.

#### **10.3.3 Informational Document Submission Procedures**

The submission procedures for informational documents are provided in Appendix C. A sample cover letter for informational document submission is provided in Appendix D.

#### **10.3.4 ACTA Review, Public Notice and Final Approval**

The ACTA shall review the submitted informational document and vote whether or not to send the document out for a public review. If the ACTA does not approve a public review, it shall notify the SDO of the reason in writing. If a public notice is approved, the ACTA shall place the informational document proposed for adoption and publication by ACTA on public notice for 30 days. After the 30-day public notice period, the ACTA shall consider all comments and oppositions and vote to adopt or reject the document. If the ACTA does not adopt the informational document after the public review period, it shall notify the SDO of the reason in writing. The SDO can choose to modify the informational document to address some or all of the concerns noted by the ACTA and resubmit it again for ACTA consideration.

## **11. REVISIONS TO THE OPERATING PRINCIPLES AND PROCEDURES**

These Operating Principles and Procedures are maintained by the ACTA. Proposed revisions to these Operating Principles and Procedures should be written and submitted to the ACTA Secretariat along with rationale supporting the requested change. The ACTA Secretariat will present the proposed revisions to the ACTA for review, consideration and ultimate decision. Any approved revisions to these Operating Principles and Procedures will be effective upon publication.

## **Appendix A - Technical Criteria Submission Procedures**

As provided for in 47 C.F.R. § 68.604, any ANSI-accredited standards development organization ("SDO"), observing ANSI consensus decision-making procedures, may establish technical criteria and submit such criteria to the ACTA. When submitting technical criteria, the SDO must certify, in writing, that:

- (1) the submitting standards development organization is ANSI-accredited to the Standards Committee Method or the Organization Method (or their successor Methods as amended from time to time by ANSI;
- (2) the technical criteria that it proposes for publication do not conflict with any published technical criteria or with any technical criteria submitted and pending for publication
- (3) the technical criteria that it proposes for publication are limited to preventing harms to the public switched telephone network, identified in § 68.3 of Part 68; and
- (4) the technical criteria were developed in accordance with ANSI requirements for consensus and due process.

### **Submission Procedures**

SDOs submitting technical criteria to the ACTA shall observe the following procedures:

- (1) All submissions shall be sent to the ACTA Secretariat at the following address:  
ACTA Secretariat  
c/o ATIS  
1200 G Street, NW  
Suite 500  
Washington, DC 20005  
or,  
[acta@atis.org](mailto:acta@atis.org)
- (2) All submissions must be provided in PDF format and accompanied by a signed cover letter including: SDO point of contact, identification of technical criteria submitted, the necessary certifications as identified in 47 C.F.R. §68.604, a grant of permission to the ACTA Secretariat providing for the distribution, reproduction and publication of the technical criteria and, a representation of rights in the submitted technical criteria. A sample cover letter is provided as Appendix B.

## Appendix B – Sample Technical Criteria Submission Cover Letter

Date

ACTA Secretariat  
c/o ATIS  
1200 G Street, NW  
Suite 500  
Washington, DC 20005

RE: Technical Criteria Submission - *<insert title of technical criteria or other identification>*

ACTA Secretariat:

The *<SDO name>* submits the technical criteria identified above for publication and adoption by the ACTA. In doing so, and pursuant to 47 C.F.R. § 68.604, *<SDO name>* hereby certifies that: (1) the organization is ANSI-accredited and in good standing under the Standards Committee Method or the Organization Method and has been during the development of the submitted technical criteria; (2) the submitted technical criteria does not conflict with any published technical criteria or with any technical criteria submitted and pending for publication (as determined through the public process observed in developing the submitted technical criteria); (3) the submitted technical criteria are limited to preventing harms to the Public Switched Telephone Network as identified in § 68.3; and, (4) the criteria were developed in accordance with applicable ANSI requirements.

The *<SDO name>* hereby grants the ACTA Secretariat the right to reproduce, distribute and publish the submitted technical criteria identified above (the “Material”) for the limited purpose of public notification pursuant to 47 C.F.R. § 68.608 and subsequent publication as adopted technical criteria for terminal equipment and to include the provision of free-downloads from the ACTA web site (the “Limited Purpose”) (the “Grant”).

In connection with the Grant, *<SDO name>* hereby represents and warrants that it owns all rights to the Materials, including as respects all copyrights thereto, or otherwise is authorized to grant such rights as respects the Materials, and all matters contained therein, to the ACTA Secretariat for the Limited Purpose. *<SDO name>* further represents and warrants that the Grant, and the ACTA Secretariat’s use of the Materials consistent with the Grant, will not violate any rights of any third-party. *<SDO name>* agrees to hold harmless and indemnify the Administrative Council for Terminal Attachments, the ACTA Secretariat, its sponsors, and all persons acting on its behalf, of and from any and all claims, liabilities, costs and expenses (including reasonable attorneys’ fees) arising from, relating to or incurred as the result of any use of the Materials by the ACTA Secretariat consistent with the Grant.

Any questions regarding this submission shall be directed to *<insert SDO contact name and information>*.

## **Appendix C - Informational Document Submission Procedures**

Any ANSI-accredited standards development organization ("SDO"), observing ANSI consensus decision-making procedures, may develop an informational document and submit such document to the ACTA for adoption and publication. When submitting an informational document, the SDO must certify, in writing, that:

- (1) The submitting SDO is ANSI-accredited and in good standing under the Standards Committee Method or the Organization Method and has been during the development of the submitted document;
- (2) The submitted document was developed in accordance with ANSI requirements;
- (3) The submitted document is related to terminal equipment as defined in 47 C.F.R. Part 68;
- (4) The purpose and intent of the submitted document falls within the mission, scope, or responsibilities of ACTA as defined in the ACTA Operating Principles and Procedures;
- (5) The submitted document does not conflict with Part 68 or any ACTA-published technical criteria, with any technical criteria submitted to and pending for publication by ACTA, or with ACTA principles, procedures, or methods;
- (6) The submitted document is educational or informational in nature, does not contain any technical requirements, has been carefully written in a manner such that nothing in the document can be reasonably construed as being an ACTA requirement, and the document does not contain the words "shall" or "must" unless quoting appropriately cited text containing those words.

### **Submission Procedures**

Entities submitting technical criteria to the ACTA shall observe the following procedures:

- (1) All submissions shall be sent to the ACTA Secretariat at the following address:  
ACTA Secretariat  
c/o ATIS  
1200 G Street, NW  
Suite 500  
Washington, DC 20005  
or,  
[acta@atis.org](mailto:acta@atis.org)
- (2) All submissions must be provided in PDF format and accompanied by a signed cover letter that includes: Point of contact, identification of document submitted, the necessary certifications as identified in ACTA procedures, a grant of permission to the ACTA Secretariat providing for the distribution, reproduction and publication of the document, and a representation of rights in the submitted document. A sample cover letter for informational submissions is provided as Appendix D.

## Appendix D – Sample Informational Submission Cover Letter

Date

ACTA Secretariat  
c/o ATIS  
1200 G Street, NW  
Suite 500  
Washington, DC 20005

RE: Informational Document Submission - *<insert title of document or other identification>*

ACTA Secretariat:

The *<SDO name>* submits the informational document identified above for adoption and publication by the ACTA. In doing so, *<SDO name>* hereby certifies that: (1) The submitting SDO is ANSI-accredited and in good standing under the Standards Committee Method or the Organization Method and has been during the development of the submitted document; (2) The submitted document was developed in accordance with applicable ANSI requirements; (3) The submitted document is related to terminal equipment as defined in 47 C.F.R. Part 68; (4) The purpose and intent of the submitted document falls within the mission, scope, or responsibilities of ACTA as defined in the ACTA Operating Principles and Procedures; (5) The submitted document does not conflict with Part 68 or any ACTA-published technical criteria, with any technical criteria submitted to and pending for publication by ACTA, or with ACTA principles, procedures, or methods; (6) The submitted document is educational or informational in nature, does not contain any technical requirements, has been carefully written in a manner such that nothing in the document can be reasonably construed as being an ACTA requirement, and the document does not contain the words "shall" or "must" unless quoting appropriately cited text containing those words.

The *<SDO name>* hereby grants the ACTA Secretariat the right to reproduce, distribute and publish the submitted document identified above (the "Material") for the limited purpose of public notification and subsequent publication as an ACTA-adopted informational document and to include the provision of free-downloads from the ACTA web site (the "Limited Purpose") (the "Grant").

In connection with the Grant, *<SDO name>* hereby represents and warrants that it owns all rights to the Materials, including as respects all copyrights thereto, or otherwise is authorized to grant such rights as respects the Materials, and all matters contained therein, to the ACTA Secretariat for the Limited Purpose. *<SDO name>* further represents and warrants that the Grant, and the ACTA Secretariat's use of the Materials consistent with the Grant, will not violate any rights of any third-party. *<SDO name>* agrees to hold harmless and indemnify the Administrative Council for Terminal Attachments, the ACTA Secretariat, its sponsors, and all persons acting on its behalf, of and from any and all claims, liabilities, costs and expenses (including reasonable attorneys' fees) arising from, relating to or incurred as the result of any use of the Materials by the ACTA Secretariat consistent with the Grant.

Any questions regarding this submission shall be directed to *<insert SDO contact name and information>*

## Appendix E – Preface and Disclaimer Text

### Technical Criteria Preface:

#### PREFACE

This document, < *insert document name* > has been established pursuant to the Federal Communication Commission's ("FCC") Report and Order in the 2000 Biennial Review of Part 68 of the Commission's Rules and Regulations, CC Docket No. 99-216, FCC 00-400, adopted November 9, 2000 and released December 21, 2000 ("Order" or "R&O"). The Order privatized the process by which technical criteria for the prevention of harm are established for customer premises or terminal equipment that may be sold for connection to the telephone network, and for the approval of such equipment to demonstrate compliance with the relevant technical criteria. The Order directed the industry to establish the Administrative Council on Terminal Attachments ("ACTA") as the balanced and open body that would assume the Commission's Part 68 role for those items privatized in the Order (Section 68.602). This document was created for submission to ACTA by < *insert SDO name* >. It is intended to fulfill the FCC's requirement to establish technical criteria for Telephone Terminal Equipment.

### Informational Document Preface:

#### PREFACE

This document, < *insert document name* > was created for submission to the Administrative Council on Terminal Attachments ("ACTA") by < *insert SDO name* >. This document is informational in nature and does not contain technical criteria or any ACTA requirements of any kind.



## Disclaimer Notice

### Notice of Disclaimer and Limitation of Liability

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