

June 21, 2001



VIA HAND DELIVERY

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

Re: *Ex Parte* Presentation Concerning Labeling Requirements in the Report &  
Order (FCC 00-400) for CC Docket No. 99-216 (Released Dec. 21, 2000)

Dear Ms. Salas:

On June 19, 2001, representatives from the Administrative Council for Terminal Attachments ("ACTA"), sponsored by the Alliance for Telecommunications Industry Solutions ("ATIS") and the Telecommunications Industry Association ("TIA"), met with representatives from the Federal Communications Commission ("FCC" or "Commission") to discuss concerns regarding the labeling requirements outlined in the Report and Order for CC Docket No. 99-216. In attendance, representing the Commission, were Diane Griffin Harmon, Acting Chief, NSD, CCB; Susan Magnotti, Senior Attorney, NSD, CCB; Pam Slipakoff, Attorney Advisor, NSD, CCB; Sean White, Attorney, DRO, CIB; William Howden, Senior Engineer, NSD, CCB; Pam Gregory, Director, DRO, CIB; Jennifer Gorny, Attorney, NSD, CCB. The individuals representing the ACTA were Steve Whitesell, VTech Innovation L.P. and the TEM Primary Representative on ACTA; Tim Jeffries, ACTA Director, ATIS; and Toni Gilbert, Staff Attorney, ATIS. Also attending via conference call were Cliff Chamney, Sprint and the IXC Primary Representative on ACTA; and Roberta Breden, Director, Technical Regulatory Affairs, TIA.

The purpose of the meeting was to request that the FCC reconsider the wording in 47 CFR §68.354(d) and §68.612, as given in Appendix B of the R&O. Specifically, the ACTA requested that wording requiring both the "responsible party" and the "manufacturer" to be identifiable from information on the product label be changed to require only that the "responsible party" be identified on the label.

ACTA believes that this was the Commission's original intent. As evidence of this, the discussion concerning product labeling in Paragraph 115 of the R&O clearly states the requirement that consumers be able to easily identify the "supplier" of their terminal equipment. The record indicates in Footnote 145 of Paragraph 86 that the Commission equates "supplier" with "responsible party": "We define the term supplier as the responsible party."

Furthermore, the definition of “responsible party” in §68.3 clearly indicates that there are cases in which the “responsible party” is the “manufacturer” and other cases in which it is not. No where in the record of the proceedings is there a discussion about, or a demonstrated need for, the “manufacturer” to be identified via the product label for those cases in which the “responsible party” is not the manufacturer. Moreover, nowhere in the proceedings has the Commission clearly defined a “manufacturer.”

The ACTA presentation also showed inconsistencies in the Commission’s translation of “supplier.” Specifically, the Commission’s use of “supplier” in Paragraph 115 of the R&O corresponds to both “responsible party” and “manufacturer” in the wording of §68.354(d) and §68.612, while “supplier” in Paragraph 124 of the R&O translates into just “responsible party” in the wording of §68.418. This particular discussion deals with the need of the consumer to identify the “supplier,” or “responsible party” concerning complaints about hearing aid compatibility and receive volume control.

The ACTA also detailed a number of other reasons that the identification of both the “responsible party” and the “manufacturer” via the product label should not be required. These include the fact that it would be more onerous than the present requirements, inconsistent with the labeling requirements under 47 CFR 15, inconsistent with the Commission’s current practice of allowing multiple manufacturers for a product without tracking specific manufacturer information, and not supported by the database that ACTA inherited from the FCC and is trying to bring online by the Commission’s July 23, 2001 deadline. It was also noted that some “responsible parties” consider the identity of their “manufacturers” to be proprietary information; being required to divulge such proprietary information without a demonstrated need could be considered discriminatory and create a competitive advantage for some “responsible parties” or a disadvantage for others.

Further details are provided in the attached document, a copy of which was provided to all participants at the meeting. ACTA is continuing with its efforts to bring the database of approved terminal equipment inherited from the FCC online by the July 23, 2001 FCC deadline without making any changes to it to accommodate multiple manufacturing locations for a given product. Therefore, as explained to the FCC staff during the meeting, the ACTA is proceeding as if the Commission has decided in favor of its proposal.

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 copy to our messenger. Should you have any questions regarding this matter, please contact me at (202) 662-8669.

Sincerely,

Timothy H. Jeffries  
ACTA Director

Attachment

cc: Yog Varma, Deputy Chief, CCB (yvarma@fcc.gov)  
Diane Griffin Harmon, Acting Chief, NSD, CCB (dharmon@fcc.gov)  
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