

prohibitions and removal of the policy that allows a foreign government or entity to use the enforcement mechanisms of the Commission.

The rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The Commission is issuing this NPRM to seek comment on the possible elimination of existing comity-based prohibitions and removal of the policy that allows a foreign government or entity to use the enforcement mechanisms of the Commission to prohibit U.S. carriers from offering call-back abroad. The proposals do not impose any additional compliance burden on small entities dealing with the Commission. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. Accordingly, we certify, pursuant to section 605(b) of the RFA, that the proposals, if promulgated, would not have a significant economic impact on a substantial number of small business entities, as defined by the RFA. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 605(b) of the RFA. This initial certification will also be published in the **Federal Register**.

#### Ordering Clauses

13. Pursuant to sections 1, 4 (j)(-j), 201(b), 214, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)(j), 201(b), 214, 303(r), and 403, this Notice of Proposed Rulemaking *Is hereby adopted*.

14. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[GC Docket No. 02-37; FCC 02-54]

#### Truthful Statements

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission proposes to amend its regulations relating to the submission of truthful information to the Commission. Under the current rule, Commission regulatees must not, in any written statement submitted to the Commission, make any misrepresentation or willful material omission bearing on any matter within the jurisdiction of the Commission. The item would provide that the rule prohibits incorrect statements or omissions resulting from negligence and not just intentional misrepresentation or lack of candor; make clearer that the rule covers statements made to the Commission in all contexts; include oral statements and not just written statements; and include all persons making statements to the Commission (e.g., including non-regulatees).

**DATES:** Comments must be filed on or before April 8, 2002; reply comments must be filed on or before April 22, 2002.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW, Room 8-C723, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** David S. Senzel, Office of General Counsel (202) 418-1720.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), GC Docket No. 2-37, adopted on February 14, 2002, and released February 22, 2002. The full text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Copies of filings may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898. Filings may also be viewed on the Commission's Internet web site using the Electronic Document Filing System (ECFS) at <http://gulfoss2.fcc.gov/prod/ecfs/comsrch-v2.cgi>.

## Summary of Notice of Proposed Rule Making

1. By this notice of proposed rulemaking, we propose to amend § 1.17 of our Rules, 47 CFR 1.17, which relates to the submission of truthful statements to the Commission.

2. In all of our proceedings, the Commission relies heavily on the truthfulness and accuracy of information submitted to us. If information submitted to us is incorrect, we cannot properly carry out our statutory responsibilities. It is our experience that the vast majority of persons dealing with the Commission understand their obligation to take the appropriate steps to ensure that the information they submit is accurate. Nevertheless, we believe that the scope of the current § 1.17 as written may reflect an unduly narrow articulation of the existing obligations of persons dealing with the Commission. It thus may hamper our ability to take enforcement action in those rare cases where persons dealing with the Commission do not exercise the requisite care to ensure that they submit accurate information. Accordingly, we propose to revise § 1.17 as follows: (1) To provide that the rule prohibits incorrect statements or omissions that are the result of an intent to deceive or negligence<sup>1</sup>; (2) to make clearer that the rule covers statements made to the Commission in all contexts; (3) to include oral statements and not just written statements; and (4) to include all persons making statements to the Commission (e.g., including non-regulatees).

3. To implement these changes, we proposed to modify slightly the first sentence of the current rule, which merely codifies existing statutory requirements in §§ 218, 308(b), 403, and other sections of the Act pertaining to the obligation to provide any required information. In addition, we modify the remainder of § 1.17 to set forth the obligation to provide truthful information. By specifying that the rule prohibits both intentional and negligent statements and omissions, the proposed rule better conveys our view that the rule should have a broad scope. Licensees, regulatees, and others are responsible for using their best efforts and exercising care and diligence to ensure that, in all contexts, the information they provide is correct and accurate. Nevertheless, we seek

<sup>1</sup> We have previously held that a violation of the portion of the rule relating to omissions may occur in the absence of an intent to deceive. See *The Curators of the University of Missouri*, 16 FCC Rcd 1174 (2001).

comment on whether certain classes of proceedings (e.g., rulemakings or other non-adjudicatory proceedings not involving specific parties) should be subject to the rule only when deceptive intent is involved and whether persons or entities that are not regulated by the Commission should be subject to the rule only when deceptive intent is involved.

#### Initial Regulatory Flexibility Certification

4. The Regulatory Flexibility Act of 1980, as amended (see 5 U.S.C. 601 *et seq.*)<sup>2</sup> requires an initial regulatory flexibility analysis in a notice and comment rulemaking proceeding unless we certify that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” 5 U.S.C. 605(b). We believe that the rule we propose today will not have a significant economic impact on a substantial number of small entities.

5. In proposing to expand the scope of 47 CFR 1.17, we are merely requiring persons dealing with the Commission to submit accurate information. The proposed revised rule thus would not impose any significant compliance burden on persons dealing with the Commission, including small entities, or otherwise affect the rights of persons participating in Commission proceedings. The revised rule would simply enable the Commission to impose sanctions more effectively in those instances where people intentionally or negligently submit incorrect information. There is thus no reason to believe that operation of the revised rule would impose significant costs on parties to Commission proceedings.

6. Accordingly, we certify that the rule as proposed will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). The Commission shall send a copy of this Notice of Proposed Rulemaking, including this certification, to the Chief Counsel for Advocacy of the SBA. 5 U.S.C. 605(b). A copy of this certification will also be published in the **Federal Register**. *Id.*

7. This Notice is *Hereby given* of the proposed regulatory changes described above, and that *Comment is Sought* on these proposals.

8. Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415,

1.419, interested persons *May file* comments on or before April 8, 2002 and reply comments on or before April 22, 2002. Comments may be filed using the Commission’s Electronic Comment Filing System or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998). To file by paper, commenters must file an original and four copies of all comments, reply comments, and supporting comments. If commenters want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition, commenters should file a copy of any such pleadings with the Office of General Counsel, Portals II, 445 12th Street, SW, Room 8–C723, Washington, DC 20554.

9. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. Copies of filings may be purchased from the Commission’s copy contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898. Filings may also be viewed on the Commission’s Internet web site using the Electronic Document Filing System (ECFS) at <http://gulfoss2.fcc.gov/prod/ecfs/comsrch—v2.cgi>. Alternative formats (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 voice, (202) 418–7365 TTY, or [bmillin@fcc.gov](mailto:bmillin@fcc.gov). This NPRM can also be downloaded in Word or ASCII formats at <http://www.fcc.gov/ccb/cpd>.

10. The Commission’s Consumer Information Bureau, Reference Information Center, *Shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Radio, Telecommunications, Television.

Federal Communications Commission.

**William F. Caton,**  
*Acting Secretary.*

#### Rule Changes

For the reasons discussed in the preamble, part 1 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e).

2. Section 1.17 is revised to read as follows:

#### § 1.17 Truthful and accurate statements to the Commission.

(a) The Commission or its representatives may, in writing, require written statements of fact relevant to the determination of any matter within the jurisdiction of the Commission.

(b) No person shall, in any written or oral statement of fact submitted to the Commission, intentionally or negligently provide incorrect material information or intentionally or negligently omit any material information bearing on any matter within the jurisdiction of the Commission.

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 51

[CC Docket No. 98–147; DA 02–506]

#### Update and Refresh Record on Rules Adopted in 1998 Advanced Services Docket

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document invites comment on the advisability of eliminating, repealing, or amending specific language in the Commission’s rules on standards for physical collocation and virtual location. The Commission is taking this action in response to a request by Verizon that the Commission clarify that this rule does not preclude an incumbent LEC from installing a point of termination bay (POT bay) at the point where an incumbent LEC’s facilities terminate and a collocater’s facilities begin.

<sup>2</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).