

Application Number	21 CFR Section	Trade Name
NADA 109-471	520.1448a	Cattle Block M
NADA 136-214	520.1846	Enproal Bloat Blox

Accordingly, the agency is amending the regulations in 21 CFR 520.1448a, 520.1840, and 520.1846 to reflect the transfer of ownership.

Following these changes of sponsorship, Sweetlix LLC is no longer the sponsor of an approved application. In addition, Ridley U.S. Holdings, Inc., is not currently listed in the animal drug regulations as a sponsor of an approved application. Accordingly, § 510.600(c) is being amended to remove the entries for Sweetlix LLC and to add entries for Ridley U.S. Holdings, Inc.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

**List of Subjects**

*21 CFR Part 510*

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

*21 CFR Part 520*

Animal drugs.

Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 and 520 are amended as follows:

**PART 510—NEW ANIMAL DRUGS**

1. The authority citation for 21 CFR parts 510 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for "Sweetlix LLC" and by alphabetically adding an entry for "Ridley U.S. Holdings, Inc." and in the table in paragraph (c)(2) by removing the entry for "036904" and by adding an entry for "067949" to read as follows:

**§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

Firm name and address	Drug labeler code
* * *	* * *
Ridley U.S. Holdings, Inc., 424 North Riverfront Dr., P.O. Box 8500, Mankato, MN 56002-8500.	067949
* * *	* * *
(2) * * *	
Drug labeler code	Firm name and address
* * *	* * *
067949	Ridley U.S. Holdings, Inc., 424 N. Riverfront Dr., P.O. Box 8500, Mankato, MN 56002-8500
* * *	* * *

**PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS**

3. The authority citation for 21 CFR part 520 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

**§ 520.1448a [Amended]**

4. Section 520.1448a is amended in paragraph (a)(2) by removing "036904" and by adding in its place "No. 067949."

**§ 520.1840 [Amended]**

5. Section 520.1840 is amended in paragraph (b)(3) by removing "036904" and by adding in its place "067949."

**§ 520.1846 [Amended]**

6. Section 520.1846 is amended in paragraph (b) by removing "050112" and by adding in its place "067949."

Dated: October 20, 2004.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 04-24112 Filed 10-27-04; 8:45 am]

**BILLING CODE 4160-01-S**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

[CC Docket No. 96-115; FCC 04-206]

**Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission addresses the petitions for reconsideration of the *Subscriber List Information Order*, which adopted rules to implement section 222(e) of the Communications Act of 1934, as amended (Communications Act or Act). The Commission denies requests for modification of certain aspects of the complaint procedures, notification requirements, and unbundling requirements established in the *Subscriber List Information Order*. The Commission eliminates the requirement for carriers to provide requesting directory publishers with notice of changes in subscriber list information in circumstances where customers choose to cease having their numbers listed, and modifies the contract disclosure requirement to allow carriers to withhold from disclosure those portions of their contracts that are unrelated to the provision of subscriber list information and to subject such disclosures to confidentiality agreements.

**DATES:** The amendments to § 64.2341 are effective November 29, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See Supplementary Information for further filing instructions.

**FOR FURTHER INFORMATION CONTACT:** William Kehoe, Senior Attorney, Competition Policy Division, Wireline Competition Bureau, at (202) 418-7122, or at *William.Kehoe@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Memorandum Opinion and Order on Reconsideration (Reconsideration Order)* in CC Docket No. 96-114, FCC 04-206, adopted August 25, 2004, and released September 13, 2004. The complete text of this Reconsideration Order 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. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893,

facsimile 202-863-2898, or via e-mail at [bcpiweb.com](mailto:bcpiweb.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

### Synopsis of the Memorandum Opinion and Order on Reconsideration

1. *Background.* Section 222(e) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), requires carriers that provide telephone exchange service to provide requesting directory publishers with subscriber list information, that is listed subscribers' names, addresses, telephone numbers, and headings under which businesses are listed in the yellow pages, "on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions." In 1999, in the *Subscriber List Information Order*, the Commission adopted comprehensive rules implementing section 222(e), consistent with the congressional intent to prevent carriers from leveraging their control over subscriber list information to impede competition in directory publishing (64 FR 53944, Oct. 5, 1999). These rules established procedures for carrier provision of subscriber list information to directory publishers, established presumptively reasonable rates for carrier provision of subscriber list information to directory publishers, and provided processes for addressing subscriber list information complaints. ALLTEL Corporate Services, Inc. (ALLTEL), the Association of Directory Publishers (ADP), Bell Atlantic (now Verizon), National Telephone Cooperative Association (NTCA), and US WEST Communications, Inc., (now Qwest Communications International Inc.) filed petitions for reconsideration that challenged certain aspects of the *Subscriber List Information Order*. Subsequently, NTCA withdrew its petition for reconsideration.

2. *Complaint Procedures.* In this order, the Commission denies a request to modify current complaint procedures to allow a directory publisher to pay the presumptively reasonable rates during the pendency of a complaint. Additionally, the Commission denies a request that any subscriber list information rate complaint will be given accelerated docket treatment or otherwise resolved within 60 days of filing.

3. *Treatment of Unlisted Numbers.* The Commission grants a request to eliminate a requirement for carriers to provide requesting directory publishers with notice of changes in subscriber list information when customers choose to have unlisted numbers.

4. *Availability of Written Contracts.* The requirement in the *Subscriber List Information Order* regarding contract disclosure is confirmed by the Commission as a useful tool to prevent discrimination. However, the Commission specifies that carriers may limit such disclosures to only those portions of contracts that are related to the carrier's provision of subscriber list information. The Commission also determines that carriers may subject such disclosures to confidentiality agreements.

5. *Timeframe for Provision of Subscriber List Information.* In the *Subscriber List Information Order*, the Commission adopted rules to help ensure that carriers provide subscriber list information on a "timely" basis as required by section 222(e). One of these rules gave carriers 30 days to inform directory publishers that they cannot comply with requests for subscriber list information. In the Reconsideration Order, the Commission declines to lower this timeframe to seven days.

6. *Safeguards.* In the *Subscriber List Information Order*, the Commission allowed carriers to require entities requesting subscriber list information pursuant to section 222(e) to certify that they will use that information only for directory publishing purposes. The Commission determined that once the directory publisher provides this certification, the carrier must comply with the directory publisher's request for subscriber list information absent a Commission order to the contrary. In the Reconsideration Order, the Commission affirms this requirement, stating that this "innocent until proven guilty" approach ensures that a directory publisher that meets the certification requirement will have the subscriber list information it needs to publish its directories pending resolution of any dispute regarding subscriber list information usage. The Commission also states that a "guilty until proven innocent" approach, even if limited to entities that are not established directory publishers, would enable carriers to delay entry by potential directory publishing competitors by forcing them to obtain Commission determinations in their favor prior to their receiving subscriber list information.

7. *Role of Carrier Publishing Affiliates.* In the *Subscriber List Information Order*, the Commission determined that a carrier's decision to have an affiliate or third party assign primary advertising classifications as required under a state obligation does not absolve the carrier of its obligation to provide those classifications to

requesting directory publishers in accordance with section 222(e). Consistent with the principle behind this determination, the Commission determines that in the Reconsideration Order that a carrier should not be allowed to use an affiliate to evade its subscriber list information responsibilities under section 222(e) and the Commission's implementing rules.

8. *Section 222(e) Unbundling.* In implementing section 222(e)'s unbundling requirement, the Commission concluded in the *Subscriber List Information Order* that section 222(e) precludes a carrier from bundling listings that the carrier is able to sell separately. The Commission required carriers to unbundle subscriber list information, including updates, on any basis requested by a directory publisher that the carrier's internal systems can accommodate. The Commission stated that, if this process results in the provision of listings in addition to those the directory publisher requested, the carrier may impose charges for, and the directory publisher may publish, only the requested listings. In the Reconsideration Order, the Commission declines to adopt suggested changes to these requirements. The Commission concludes that the unbundling requirements adopted in the *Subscriber List Information Order* properly balance carriers' and directory publishers' competing interests.

9. *Unpublished and Unlisted Information.* In the Reconsideration Order, the Commission denies a request that it rules that sections 201 and 202 of the Act mandate that carriers must provide information regarding subscribers with unpublished and unlisted numbers to competing publishers if the carriers provide that information to their own publishing affiliates. The Commission determines that this request is beyond the scope of this proceeding, which it had initiated to consider adopting regulations to implement section 222 of the Act and did not indicate that the Commission might act pursuant to sections 201 or 202.

### Final Regulatory Flexibility Analysis

10. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking* in CC Docket No. 96-115 (*Notice*). The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. In addition, a Final Regulatory Flexibility Analysis was incorporated in the *Third*

Report and Order in CC Docket No. 96–115 (*Subscriber List Information Order*). This present Supplemental Final Regulatory Flexibility Analysis (SFRFA) on the *Memorandum Opinion and Order on Reconsideration* (*Reconsideration Order*) conforms to the RFA.

### Need for, and Objectives of, Adopted Rules

11. The need for and objectives of the rules adopted in this *Reconsideration Order* are the same as those discussed in the FRFA on the *Subscriber List Information Order*. In general, these rules implement section 222(e) of the Communications Act, in order to further Congress's goal of preventing unfair local exchange carrier (LEC) practices in relation to subscriber list information and of encouraging the development of competition in directory publishing. The Commission promulgated rules pursuant to section 222(e) of the Communications Act in the *Subscriber List Information Order*. We grant in part, and deny in part the requests for reconsideration or clarification of the *Subscriber List Information Order*. In particular, we deny a request that the Commission modify the complaint procedures adopted in the *Subscriber List Information Order* by allowing a publisher to pay the presumptively reasonable rates during the pendency of a complaint and by guaranteeing that any subscriber list information rate complaint will be given accelerated docket treatment or otherwise resolved within 60 days of filing. We grant a request that the Commission eliminate a requirement that carriers provide requesting directory publishers with notice of changes in subscriber list information in circumstances where customers choose to cease having their numbers listed. We confirm as a useful tool to prevent discrimination the *Subscriber List Information Order's* requirement regarding contract disclosure, but allow carriers to limit such disclosures to only those portions of contracts that are related to subscriber list information and subject such disclosures to confidentiality agreements. Finally, the Commission affirms other aspects of the *Subscriber List Information Order* that were subject to petitions for reconsideration.

### Summary of Significant Issues Raised by Public Comments in Response to the FRFA

12. We received no comments directly in response to the FRFA in this proceeding.

### Description and Estimate of the Number of Small Entities to Which the Adopted Rules Will Apply

13. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules, if adopted. 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 section 3 of the Small Business Act. Under the Small Business Act, a "small business concern" is one that: (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 (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."

14. In this section, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules adopted in this Order. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission published in its *Trends in Telephone Service August 2003* report. The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of "Wired Telecommunications Carriers," "Paging," and "Cellular and Other Wireless Telecommunications." Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, we discuss the total estimated numbers of small businesses that might be affected by our actions.

15. We have included small incumbent local exchange carriers (incumbent LECs) in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business, having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent

LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

16. *Wired Telecommunications Carriers*. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were a total of 2,225 firms in this category that operated for the entire year. Of this total, 2,210 firms employed 999 or fewer employees, and an additional 24 firms employed 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small.

17. *Incumbent Local Exchange Carriers*. Neither the Commission nor the SBA has developed a specific small business size standard for providers of incumbent local exchange services. The closest applicable size standard under the SBA rules is for "Wired Telecommunications Carriers." Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 1,337 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, we estimate that the majority of providers of local exchange service are small entities that may be affected by the rules and policies adopted herein.

18. *Competitive Local Exchange Carriers*. Neither the Commission nor the SBA has developed a specific small business size standard for providers of competitive local exchange services or to competitive access providers or to "Other Local Exchange Carriers," all of which are discrete categories under which TRS data are collected. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. Consequently, the Commission estimates that the majority of providers of competitive local exchange service, competitive access providers, and "Other Local

Exchange Carriers” are small entities that may be affected by the rules and policies adopted herein.

19. *Local Resellers.* The SBA has developed a specific size standard for small businesses within the category of “Telecommunications Resellers.” Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 133 companies reported that they were engaged in the provision of local resale services. Of these 133 companies, an estimated 127 have 1,500 or fewer employees and 6 have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers may be affected by the rules.

20. *Toll Resellers.* The SBA has developed a specific size standard for small businesses within the category of “Telecommunications Resellers.” Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 625 companies reported that they were engaged in the provision of toll resale services. Of these 625 companies, an estimated 590 have 1,500 or fewer employees and 35 have more than 1,500 employees. Consequently, the Commission estimates that a majority of toll resellers may be affected by the rules.

21. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to providers of interexchange services. The closest applicable size standard under the SBA rules is for “Wired Telecommunications Carriers.” Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 261 carriers reported that their primary telecommunications service activity was the provision of interexchange services. Of these 261 carriers, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, we estimate that a majority of interexchange carriers may be affected by the rules.

22. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to operator service providers. The closest applicable size standard under the SBA rules is for “Wired Telecommunications Carriers.” Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 23 companies reported that they were engaged in the

provision of operator services. Of these 23 companies, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that a majority of local resellers may be affected by the rules.

23. *Prepaid Calling Card Providers.* The SBA has developed a size standard for small businesses within the category of “Telecommunications Resellers.” Under that size standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 37 companies reported that they were engaged in the provision of prepaid calling cards. Of these 37 companies, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that a majority of prepaid calling providers may be affected by the rules.

24. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to “Other Toll Carriers.” This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under the SBA rules is for “Wired Telecommunications Carriers.” Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 92 carriers reported that they were engaged in the provision of “Other Toll Services.” Of these 92 carriers, an estimated 82 have 1,500 or fewer employees and ten have more than 1,500 employees. Consequently, the Commission estimates that a majority of “Other Toll Carriers” may be affected by the rules.

25. *Directory Publishers.* Many directory publishers are members of either of two trade associations, Association of Directory Publishers (ADP) and Yellow Pages Integrated Media Association (YPIMA). ADP states that its membership includes more than 135 directory publishers. Collectively, these companies publish over 2,200 different directories annually. While we have no current information on the number of YPIMA’s members, YPIMA states that its members deliver yellow pages directories to virtually all telephone households within the United States. We have also no data on how many ADP and YPIMA members have gross annual revenues of \$5 million or less. We assume, for purposes of this SFRFA, that all of these publishers are

small entities that may be affected by this *Reconsideration Order*. Collectively, ADP and YPIMA members publish the vast majority of the directories published in the United States. There, however, likely are additional directory publishers that are small entities.

#### **Description of Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

26. In this section of the Supplemental FRFA, we analyze the projected reporting, recordkeeping, and other compliance requirements that may apply to small entities as a result of this *Reconsideration Order*. We also describe the steps taken to minimize the economic impact of our decisions on small entities, including the significant alternatives considered and rejected.

27. In the *Subscriber List Information Order*, the Commission adopted presumptively reasonable rates of \$0.04 per listing for base file subscriber list information and \$0.06 per listing for updates. In the *Reconsideration Order*, we deny a request that the Commission modify the complaint procedures adopted in the *Subscriber List Information Order* by allowing a publisher to pay those presumptively reasonable rates during the pendency of a complaint and by guaranteeing that any subscriber list information rate complaint will be given accelerated docket treatment or otherwise resolved within 60 days of filing. We grant a request that the Commission eliminate a requirement that carriers provide requesting directory publishers with notice of changes in subscriber list information in circumstances where customers choose to cease having their numbers listed. We confirm as a useful tool to prevent discrimination the *Subscriber List Information Order*’s requirement regarding contract disclosure, but allow carriers to limit such disclosures to only those portions of contracts that are related to subscriber list information and subject such disclosures to confidentiality agreements. We decline ADP’s request to change the timeframe in which carriers must inform directory publishers that they cannot comply with a request for subscriber list information to seven days. We determine that the safeguards adopted in the *Subscriber List Information Order* are sufficient and reject a request to allow a carrier to refrain from providing subscriber list information to directory publishers that the carrier believes will misuse it. We affirm that carriers may not use their publishing affiliates to avoid fulfilling their duties under section 222(e). We

reject Bell Atlantic's requests that we determine that if a carrier is unable to unbundle subscriber list information in the manner that the publisher requests, the publisher must pay for all the listings received, not just the listings that the publisher uses. Finally, we reject a request that we take action under sections 201 and 202 of the Act, because such action would be beyond the scope of the original *Notice* in this docket. Additionally, the collection of information contained herein is contingent upon approval by the Office of Management and Budget.

#### Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

28. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its adopted approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

29. In choosing among the various alternatives in the *Reconsideration Order*, we have sought to minimize the adverse economic impact on carriers and directory publishers, including those that are small entities. As was the case in the *Subscriber List Information Order*, moreover, we recognize that Congress intended section 222(e) to prevent carriers from deriving economic benefits from refusing to provide subscriber list information on a timely and unbundled basis, charging discriminatory or unreasonable rates for that information, or imposing discriminatory or unreasonable terms or conditions in connection with the provision of that information. In reconsidering our rules implementing that section, we have sought to further this congressional intent in a manner that minimizes regulatory burdens, including the burdens on small entities. The effort has resulted in our eliminating a requirement that carriers provide requesting directory publishers with notice of changes in subscriber list information in circumstances where customers choose to cease having their numbers listed. We also amend our contract disclosure rules to allow carriers to withhold from disclosure certain portions of subscriber list

information contracts and to subject disclosure of such contracts to confidentiality agreements. These changes should reduce burdens on carriers, including those that are small businesses, without adversely affecting directory publishers.

30. In other instances, however, we reject as unsupported by the record proposed alternatives to the rules adopted in the *Subscriber List Information Order*. For instance, we reject as beyond the scope of this proceeding a request that we take action, pursuant to sections 201 and 202 of the Communications Act, to prohibit carriers from favoring their own directory publishing operations over their competitors' operations in connection with information regarding subscribers with unpublished or unlisted numbers. We believe that these actions properly balance the interests of carriers and directory publishers, including the members of each group that are small businesses.

#### Report to Congress

31. The Commission will send a copy of the *Reconsideration Order*, including this SFRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Reconsideration Order*, including the SFRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Reconsideration Order* and SFRFA (or summaries thereof) also will be published in the **Federal Register**. See 5 U.S.C. 604(b).

#### Ordering Clauses

32. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f), 251, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222(e), 222(f), 303(r), and 403, that this *Memorandum Opinion and Order on Reconsideration is adopted*.

33. *It is further ordered*, pursuant to sections 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f), 251, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222(e), 222(f), 303(r), and 403, that this *Memorandum Opinion and Order on Reconsideration shall become effective* thirty days after publication of the text or a summary thereof in the **Federal Register**, except for paragraphs 7 through 10 of this summary, which contain collection requirements that have not been approved by OMB. The Federal Communications Commission will

publish a document in the **Federal Register** announcing the effective date.

34. *It is further ordered* that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f), 251, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222(e), 222(f), 303(r), and 403 that the petition for reconsideration of the *Subscriber List Information Order* filed on November 4, 1999, by the Association of Directory Publishers *is granted* to the extent indicated herein and otherwise *is denied*.

35. *It is further ordered* that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f), 251, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222(e), 222(f), 303(r), and 403 that the petition for reconsideration and clarification of the *Subscriber List Information Order* filed on November 4, 1999, by ALLTEL Corporate Services, Inc., *is granted* to the extent indicated herein and otherwise *is denied*.

36. *It is further ordered* that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f), 251, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222(e), 222(f), 303(r), and 403 that the petition for reconsideration of the *Subscriber List Information Order* filed on November 4, 1999, by the Bell Atlantic *is granted* to the extent indicated herein and otherwise *is denied*.

37. *It is further ordered* that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f), 251, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222(e), 222(f), 303(r), and 403 that the petition for reconsideration of the *Subscriber List Information Order* filed on November 4, 1999, by U S WEST Communications, Inc., *is granted* to the extent indicated herein and otherwise *is denied*.

38. *It is further ordered* that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 201–205, 208, 222(e), 222(f), 251, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 208, 222(e), 222(f), 303(r), and 403 that the petition for reconsideration of the *Subscriber List Information Order* filed on November 4, 1999, by National Telephone Cooperative Association *has been withdrawn*.

39. *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 on Reconsideration*, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

Subscriber List Information, Record Keeping, and Directory Publishers.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

#### Final Rules

### PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

- 1. The authority citation for part 64 is revised to read as follows:

**Authority:** 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B),(c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254 (k) unless otherwise noted.

- 2. Section 64.2341 is amended by revising paragraph (c) and adding paragraphs (d) and (e) to read as follows:

#### § 64.2341 Record keeping.

\* \* \* \* \*

(c) Except to the extent specified in paragraph (d), a carrier shall make the contracts and records described in paragraphs (a) and (b) available, upon request, to the Commission and to any directory publisher that requests those contracts and records for the purpose of publishing a directory.

(d) A carrier need not disclose to a directory publisher pursuant to paragraph (c) portions of requested contracts that are wholly unrelated to the rates, terms, or conditions under which the carrier provides subscriber list information to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

(e) A carrier may subject its disclosure of subscriber list information contracts or records to a directory publisher pursuant to paragraph (c) to a confidentiality agreement that limits access to and use of the information to the purpose of determining the rates, terms, and conditions under which the carrier provides subscriber list information to itself, an affiliate, or an entity that publishes directories on the carrier's behalf.

[FR Doc. 04–23094 Filed 10–27–04; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket No. 02–278, FCC 04–223]

### Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** In this document, the Commission extends through June 30, 2005, the effective date of the Commission's determination that an established business relationship will no longer be sufficient to show that an individual or business has given express permission to receive unsolicited facsimile advertisements and the rule requiring that the sender of a facsimile advertisement first obtain the recipient's express permission in writing.

**DATES:** The effective date of the rule amending 47 CFR part 64, § 64.1200(a)(3)(i) published at 68 FR 44144, July 25, 2003, is delayed until July 1, 2005.

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

**FOR FURTHER INFORMATION CONTACT:** Erica H. McMahon at 202–418–2512, Consumer & Governmental Affairs Bureau, Federal Communications Commission.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order* in CG Docket No. 02–278, FCC 04–223, adopted on September 15, 2004 and released on October 1, 2004. The full text of this document is available at the Commission's Web site <http://www.fcc.gov> on the Electronic Comment Filing System and for public inspection and copying during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of the decision may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc., at its Web site: <http://www.bcpiweb.com> or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or

(202) 418–0432 (TTY). The *Order* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb>.

#### Synopsis

On July 3, 2003, the Commission revised the unsolicited facsimile advertising requirements under the Telephone Consumer Protection Act of 1991 (TCPA). On August 18, 2003, the Commission issued an *Order on Reconsideration* (68 FR 50978, August 25, 2003) that established an effective date of January 1, 2005. We now extend, through June 30, 2005, the effective date of the determination that an established business relationship will no longer be sufficient to show that an individual or business has given express permission to receive unsolicited facsimile advertisements, as well as the amended unsolicited facsimile provisions at 47 CFR 64.1200(a)(3)(i). Section 64.1200(a)(3)(i), as amended, requires the sender of a facsimile advertisement to first obtain from the recipient a signed, written statement that includes the facsimile number to which any advertisements may be sent and clearly indicates the recipient's consent to receive such facsimile advertisements from the sender. In light of recent action by the United States House of Representatives to amend the TCPA and similar proposed legislation in the United States Senate, we believe the public interest would best be served by delaying the effective date of the written consent requirement for six months to allow Congress to act. Should Congress not act in this regard, a further extension will provide the Commission requisite time to address the petitions for reconsideration filed on these issues. For these same reasons, through June 30, 2005, the 18-month limitation on the duration of the established business relationship based on purchases and transactions and the three-month limitation on applications and inquiries will not apply to the transmission of facsimile advertisements.

We emphasize that our existing TCPA rules prohibiting the transmission of unsolicited advertisements to a telephone facsimile machine will remain in effect during the pendency of this extension. Under these rules, those transmitting facsimile advertisements must have an established business relationship or prior express permission from the facsimile recipient to comply with our rules.

#### Ordering Clauses

Pursuant to sections 1–4, 227, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154,