



**United States
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Office of the General Counsel

Subject: Amendments of Parts 2 and 15 of the Federal Communication Commission Rules to Deregulate the Equipment Authorization Requirements for Digital Devices

File: B-271810.7, GAO/OGC-96-21

Date: July 2, 1996



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The Honorable Larry Pressler
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Amendment of Parts 2 and 15 of the Federal Communication Commission Rules to Deregulate the Equipment Authorization Requirements for Digital Devices

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by Federal Communications Commission (FCC), entitled "Amendment of Parts 2 and 15 of the Commission's Rules to Deregulate the Equipment Authorization Requirements for Digital Devices" (ET Docket No. 95-19: FCC 96-208). We received the rule on May 30, 1996. It was published in the Federal Register as a final rule on June 19, 1996.

The FCC's Report and Order amending Parts 2 and 15 of Title 47 of the Code of Federal Regulations, deregulates the equipment authorization requirements for personal computers and peripherals. The Order provides for a new self-authorization process based on a manufacturer's or supplier's declaration of compliance with all FCC requirements. The original certification procedure required submission of a written application, test report and fee (and a device for testing in some cases) to the FCC laboratory. The FCC estimates that the new procedure will save industry approximately \$250 million annually in administrative expenses.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FCC complied with the applicable requirements.

If you have any questions about this report, please contact Alan Zuckerman, Assistant General Counsel, at (202) 512-4586. The official responsible for GAO evaluation work relating to the Federal Communications Commission is John Anderson, Director, Transportation and Telecommunications Issues. Mr. Anderson can be reached at (202) 512-8234.

Robert P. Murphy
General Counsel

Enclosure

cc: Andrew S. Fishel, Managing Director
Federal Communications Commission

ANALYSIS OF AMENDMENT OF PARTS 2 AND 15 OF THE COMMISSION'S RULES
TO DEREGULATE THE EQUIPMENT AUTHORIZATION REQUIREMENTS FOR
DIGITAL DEVICES RULE UNDER 5 U.S.C. § 801(A)(i)(B)(I)-(iv)

(i) Cost-benefit analysis

The Commission indicated in its submission that it was not required to prepare a cost-benefit analysis of the rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607 and 609

Section 603: Initial regulatory flexibility analysis

Pursuant to section 603 of the Act, the Commission incorporated an Initial Regulatory Flexibility Analysis in its Notice of Proposed Rule Making. The Commission's Proposed Rule Making was published in the Federal Register, 61 Fed. Reg. 15116, March 22, 1995. Our review of the initial analysis indicates that the requirements of section 603 have been met. At that time, written comments on the proposal were requested. The Commission also reports that it forwarded a copy of its initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration (SBA) as required by the Act, and that the SBA did not file comments.

Section 604: Final regulatory flexibility analysis

The Commission prepared a Final Regulatory Flexibility Analysis pursuant to section 604. That analysis notes that the rule was needed in order to reduce regulatory burdens on computer manufacturers, to remove impediments to flexible systems design and construction techniques, and to reduce the potential for interference to radio services by improving the Commission's ability to ensure that personal computers comply with the Commission's standards and testing procedures. The Commission further notes that no commenting parties raised issues specifically in response to the initial regulatory flexibility analysis, and that no significant alternatives were considered.

Section 605: Avoidance of duplicative or unnecessary analysis

The Commission did not invoke any of the exemptions or special procedures authorized by section 605 in preparing its regulatory flexibility analysis.

Section 607: Preparation of analyses

Under section 607, the Commission's submission does not specifically indicate the potential economic impact or the number of small entities affected. However, the initial regulatory flexibility analysis indicates that the rule will result in a significant decrease in the amount of testing and Commission authorization of computer systems with a resultant reduction in economic burden. The Commission notes that there are 100-150 manufacturers of various component devices but does not indicate what the ratio of large to small business might be in this mix.

Section 609: Participation by small entities

In addition to the actions required by 5 U.S.C. § 553, the Commission also made available a complete copy of the proposed and final rulemaking materials via the Internet. There were no special efforts made by the Commission to involve small entities in the rulemaking process.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to Title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under Acts and Executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The rule was promulgated through the general notice of proposed rulemaking procedures of the Act, 5 U.S.C. § 553. The Commission afforded interested persons the opportunity to comment on the proposed rule, and the Commission's Report and Order adopted on May 9, 1996, and released May 14, 1996, addresses these comments.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The Final Report and Order is subject to the Paperwork Reduction Act of 1995, and has received OMB clearance (OMB #3060-0636).

Statutory authorization for the rule

The new rules are promulgated with the authority provided in the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307. In addition, the Telecommunications Act of 1996, Pub. L. No. 104-114,

110 Stat.56 (1996), provides specific new authority to the Commission to eliminate unnecessary regulations and functions, and among other things, authorizes the use of private organizations for testing and certifying the compliance of devices with regulations promulgated by the FCC.

The Commission did not identify any other statutes or Executive Orders imposing requirements relevant to the rule.