

ACTION: Proposed rule and notice of inquiry.

SUMMARY: The Commission adopted this Notice of Proposed Rule Making and Notice of Inquiry to solicit comment on proposed changes to its rules and policies governing operator service providers (OSPs) and call aggregators. The proposed rule changes are intended to clarify existing OSP requirements, and the notice of inquiry examines the need for additional protection measures.

DATES: Comments must be submitted on or before March 9, 1995 and reply comments must be submitted on or before March 24, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT: Carolyn Tatum Roddy, Enforcement Division, Common Carrier Bureau, (202) 418-0960.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making and Notice of Inquiry* in CC Docket No. 94-158 [FCC 94-352], adopted December 28, 1994 and released February 8, 1995. The full text of the Notice of Proposed Rule Making and Notice of Inquiry is available for inspection and copying during normal business hours in the Dockets Reference Room, Room 239, 1919 M Street, NW, Washington, D.C. The full text of this Notice of Proposed Rule Making and Notice of Inquiry may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857-3800.

Summary of Notice of Proposed Rule Making and Notice of Inquiry

1. On December 28, 1994, the Commission adopted a Notice of Proposed Rule Making and Notice of Inquiry in CC Docket No. 94-158, FCC 94-352, proposing changes to rules governing the operator service providers (OSPs) and call aggregators and soliciting comments concerning the need to reexamine certain issues relating to OSPs in correctional institutions and the need to establish a time limit for updating consumer information posted on or near aggregator telephones. The proposed rule changes are intended to clarify existing OSP requirements, and the notice of inquiry examines the need for additional consumer protection measures.

2. The Commission adopted comprehensive regulations governing the practices and services of OSPs and

the call aggregators with whom they contract to provide operator services pursuant to the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA). TOCSIA established rules concerning consumer information, call blocking, restrictions on certain charges, and equipment capabilities. Further, the Commission established minimum standards for OSPs to use in routing and handling emergency telephone calls. Subsequently, with the Telecommunications Authorization Act of 1992 (TAA), Congress amended Section 226 (d)(4)(A) to require the Commission to establish minimum standards for aggregators, as well as OSPs, to use in routing and handling emergency calls.

3. Section 226(b)(1)(A) of the Communications Act of 1934, as amended (Act), and Section 64.703(a)(1) of the Commission's rules (rules) require an OSP to identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call. This identification is known as "call branding." Section 226(a)(4) of the Act and Section 64.708(d) of the Commission's rules define a "consumer" as "a person initiating any interstate telephone call using operator services." The Commission notes that collect calls involve two parties making choices and tentatively concludes that both the calling party, who places the call, and the called party, who must accept the charges in order for the message portion of the call to begin, cooperatively initiate the call as "consumers" and should each receive a "brand" before they commence their portions of the collect call transaction. Thus, the Commission proposes to amend Section 64.708(d) of the Commission's rules to redefine "consumer" to that effect and invites interested parties to comment on this proposed rule change. The Commission specifically solicits data concerning both the cost of compliance with this proposed rule change and the ratio of collect calls to all operator-assisted calls.

4. Section 226(d)(4)(A) of the Act directed the Commission to prescribe regulations establishing minimum standards for OSPs to use in routing and handling emergency telephone calls. In the *Report and Order*, CC Docket No. 90-313, 56 F R 18519 (April 23, 1991), the Commission adopted Section 64.706 of the rules to implement this requirement. This rule currently requires that "[u]pon receipt of any emergency telephone call, a provider of operator services shall immediately connect the call to the appropriate

emergency service of the reported location of the emergency, if known, and, if not known, of the originating location of the call." The TAA amended Section 226(d)(4)(A) of the Act and directed the Commission to establish minimum standards for aggregators, as well as OSPs, to use in routing and handling emergency telephone calls. In light of this amendment, the Commission proposes to modify its rules to require that aggregators be subject to the same requirements for routing and handling emergency calls that apply to OSPs. The Commission solicits comment on this proposed rule change and whether the TAA or sound public policy support the adoption of additional requirements in order to ensure the prompt and proper handling of emergency calls from aggregator locations.

5. In the *Report and Order* in CC Docket No. 90-313, the Commission examined the question of whether correctional institutions providing inmate-only telephones should be excluded from the definition of "aggregator" and, therefore, exempt from the requirements of TOCSIA and the Commission's implementing regulations. The Commission concluded that providing such telephones to inmates presents an "exceptional set of circumstances" that warrant their exclusion from the definition of "aggregators" and ruled that inmate-only telephones would not be subject to the requirements specified by TOCSIA or the implementing rules. In light of numerous informal complaints, the Commission hereby initiates a Notice of Inquiry concerning what changes, if any, should be made to the rules applicable to inmate-only telephones in correctional institutions. The Commission specifically seeks comment on the needs of the inmate users, the resources and needs of correctional institutions in providing inmate telephone service, and whether the goals of Section 226 of the Act and the public interest have been met through the current treatment of inmate-only telephones in correctional institutions.

6. The Commission also seeks comment on whether to require a time limit for updating consumer information that is posted on aggregator telephones. Section 226(c)(1)(A) of the Communications Act and Section 64.703(b) of the Commission's rules require that each aggregator post on or near the telephone instrument in plain view of consumers: (1) the name, address, and toll-free telephone number of the provider of operator services; (2) a written disclosure that the rates for all operator-assisted calls are available on