



Office of the General Counsel

B-277981

September 22, 1997

The Honorable John McCain
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: Federal Communications Commission: International Settlement Rates

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (Commission), entitled "International Settlement Rates" (IB Docket No. 96-261; FCC 97-280). We received the rule on September 8, 1997. It was published in the Federal Register as a final rule on August 29, 1997. 62 Fed. Reg. 45758.

The final rule revises the benchmark settlement rates for international message telephone service between the United States and other countries. The revisions to the benchmark rates were necessary because the current benchmarks have been rendered obsolete by changes in the global telecommunications market in recent years. According to the Commission, current rates greatly exceed foreign carriers' actual costs for terminating calls originating from the United States. The revised rates reflect technological improvements, their associated cost reductions, and the market structure changes occurring in the global telecommunications market.

Enclosed is our assessment of the Commission'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 Commission complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Federal Communications Commission is John Anderson, Director of Transportation Issues. Mr. Anderson can be reached at (202) 512-2834.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Peter W. Herrick
AMD-Performance Evaluation and
Records Management
Federal Communications Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"INTERNATIONAL SETTLEMENT RATES"
(IB Docket No. 96-261; FCC 97-280)

(i) Cost-benefit analysis

The Commission, in its report to our Office, states that it was not required to prepare and did not prepare a cost-benefit analysis of the final rule.

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

The Commission prepared an Initial Regulatory Flexibility Analysis which was published in its entirety in the Notice of Proposed Rulemaking and comments were invited.

The preamble to the final rule contains the complete Final Regulatory Flexibility Analysis, which describes the reason for the final rule and the legal basis for it. The analysis also includes descriptions and estimates of the number of small entities affected by the rule; a discussion of the recordkeeping, reporting, and other compliance requirements; and the steps taken to minimize the burdens on small entities.

The Commission believes that, at most, 635 international carriers that provide switched services using resold or facilities-based private lines would be classified as small entities.

The Commission did not receive any comments on the alternative enforcement methods that may be necessary to support U.S. carriers, including small entities. The Commission also solicited comments on a variety of alternative methodologies for calculating benchmark settlement rates, but these methodologies would not have any impact on small entities.

(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 final rule was promulgated using the notice and comment procedures of 5 U.S.C. § 553. On December 30, 1996, the Commission published in the Federal Register a Notice of Proposed Rulemaking and requested comments on the proposed rule. 61 Fed. Reg. 68702.

The Commission received comments from over 75 companies and foreign governments concerning the proposed rule. The preamble to the final rule discusses the comments received and the changes the Commission made as a result of the comments, including a more frequent collection of information to protect against anticompetitive behavior and to detect market distortions.

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

The final rule contains a revision of an existing information collection requirement which is subject to approval by the Office of Management and Budget under the Paperwork Reduction Act.

In the preamble to the final rule, the Commission explains the need for the information and the burden estimate related to the collection. The Commission estimates that five U.S. common carriers would have to file the Reports of Overseas Telecommunications Traffic. These reports are currently filed on an annual basis, and the new collection requirement has them being filed quarterly in order to detect any market distortions. The total burden hours are estimated at 800 hours annually but at no additional cost because the carriers are currently maintaining the data as part of their normal business practices.

The requirement will not become effective and have to be complied with until the collection is approved by the Office of Management and Budget.

Statutory authorization for the rule

The final rule was issued pursuant to sections 1, 2, 4(i), 201, 205, 214, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 201, 205, 214, and 303(r).

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order No. 12866.

The Commission did not identify any other statutes or executive orders imposing requirements on the rulemaking.