



B-283709

October 5, 1999

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: Implementation of the
Communications Assistance for Law Enforcement Act

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, entitled "Implementation of the Communications Assistance for Law Enforcement Act" (CC Docket No. 97-213; FCC 99-11). We received the rule on August 31, 1999. It was published in the Federal Register as a final rule on September 23, 1999. 64 Fed. Reg. 51462.

The final rule establishes a minimum set of system security and integrity requirements that all telecommunications carriers must follow to ensure compliance with section 105 of the Communications Assistance for Law Enforcement Act and section 229(b) and(c) of the Communications Act.

In general, the rule requires that telecommunications carriers ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier, designated as a 24-hour a day point of contact available to law enforcement officials.

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 James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Judy England-Joseph, Director, Housing and Community Development Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Sincerely yours,

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Diane Cornell
Associate Chief, Wireless
Telecommunications Bureau
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
"IMPLEMENTATION OF THE COMMUNICATIONS ASSISTANCE
FOR LAW ENFORCEMENT ACT"
(CC DOCKET NO. 97-213; FCC 99-11)

(i) Cost-benefit analysis

The FCC, 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 FCC prepared an Initial Regulatory Flexibility Analysis in connection with the Notice of Proposed Rulemaking and a Final Regulatory Flexibility Analysis in issuing the final rule.

The analyses comply with the requirements of the Regulatory Flexibility Act, including the number and description of the small entities affected by the rule, the steps taken to minimize the burdens on small entities, and alternatives that were considered.

In order to minimize the burden, the FCC eliminated the proposed requirement of a separate affidavit and a separate record for each surveillance and instead allows the compilation and maintenance of a single record containing the enumerated information.

(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 FCC 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 issued using the notice and comment procedures contained at 5 U.S.C. 553. On November 11, 1997, the FCC published a Notice of Proposed Rulemaking in the Federal Register. 62 Fed. Reg. 63302. In response, the FCC

received comments from 26 parties and reply comments from 23 parties, which are considered and responded to in the preamble to the final rule.

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

The final rule contains a modified information collection that is subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

The preamble to the final rule contains the information required by the Act, including the number of respondents, the need and uses of the collection, and the estimated annual burden. Comments are solicited by November 22, 1999, on the collection revision.

Statutory authorization for the rule

The final rule was issued pursuant to the authority contained in sections 4(i), 4(j), and 229 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 229, and section 105 of the Communications Assistance for Law Enforcement Act, 47 U.S.C. 1004.

Executive Order No. 12866

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