

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Temporary Waiver of Section 25.281(b))	IB Docket No. 12-267
Transmitter Identification Requirements for Video)	
Uplink Transmissions)	

ORDER

Adopted: March 4, 2016

Released: March 4, 2016

By the Chief, International Bureau:

I. INTRODUCTION

1. In this Order, we issue a blanket waiver of the identification requirement for digital video transmissions in Section 25.281(b) for a period of one year, beginning on the effective date of the requirement, September 3, 2016. In light of information concerning the equipment available to meet these requirements, this temporary waiver will allow additional time to update the record on the anticipated costs of compliance and to determine whether any additional relief is warranted.

II. BACKGROUND

2. Since 1991, the Commission has required satellite uplink transmissions carrying “broadband” video information to include a signal identifying the source of the transmission.¹ This signal, produced by an Automatic Transmitter Identification System (ATIS), allows satellite operators that may be receiving interference from the video transmission to more quickly identify and address the source of interference.

3. In 2013, the Commission updated the ATIS requirement in Section 25.281 to better accommodate digitally modulated video transmissions.² Specifically, for digital video uplinks from temporary-fixed earth stations, the Commission replaced the requirement to transmit a 7.1 megahertz subcarrier signal with a requirement to include a spread-spectrum ATIS message conforming to a modern industry standard.³

4. The record in the 2013 proceeding indicated that the new ATIS requirement for digital video could be accommodated by upgrading existing earth station equipment with an external modulator, in addition to replacing the equipment with new facilities incorporating an embedded modulator.⁴ Based

¹ 47 CFR § 25.281; *An Automatic Transmitter Identification System for Radio Transmitting Equipment*, First Report and Order, 5 FCC Rcd 3256, 3258, paras. 24-25 (1990).

² *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Report and Order, 28 FCC Rcd 12403, 12466-70, paras. 208-220 (2013) (*Part 25 Order*), https://apps.fcc.gov/edocs_public/attachmatch/FCC-13-111A1_Rcd.pdf.

³ *Id.* at 12468-69, para. 213; 47 CFR § 25.281(b).

⁴ Comtech EF Data Corporation (Comtech) Comments, IB Docket No. 12-267, at 12 (“[T]he technology to deploy the spread spectrum Carrier ID is, for all practical purposes, already commercially available both in the form of external modulators and of embedded modulators[.]”), 13 n.25, Technical Appx. (Jan. 14, 2013), <http://apps.fcc.gov/ecfs/document/view?id=7022104481> (Comtech Comments).

on this record, the Commission adopted a two-year grace period for operators to bring their equipment into compliance with the new ATIS rule in Section 25.281(b).⁵ The Commission concluded that two years was a sufficient implementation period, and declined a proposed five-year phase-in schedule, because it was not requiring the ATIS to be embedded and therefore not requiring existing facilities to be replaced.⁶

III. DISCUSSION

5. Based on concerns raised by affected earth station operators and staff market surveillance, it appears that the external modulators necessary to upgrade equipment have not become available.⁷ Many earth station operators would therefore be unable to upgrade their transmitting equipment to comply with Section 25.281(b), and instead would need to replace the equipment at considerably greater expense than anticipated when the rule was adopted.

6. The Commission may waive any rule for good cause.⁸ Waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.⁹ In making this determination, we may take into account considerations of hardship, equity, or more effective implementation of overall policy.¹⁰ Waiver of the Commission's rules is therefore appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.¹¹

7. We find good cause to issue a blanket waiver of Section 25.281(b) for a period of one year. When adopting the two-year grace period, the Commission balanced the expected reduction in interference with the costs of compliance, assuming that existing earth stations could be upgraded relatively inexpensively to meet the new rule. Market developments cast doubt on that assumption for a significant number of operators. Further, a requirement to prematurely replace existing equipment could especially burden small earth station operators. To allow additional time to seek comment through a Public Notice, and consider an updated record on this issue, we waive the requirement in Section 25.281(b) from its effective date of September 3, 2016,¹² through September 3, 2017. We will address any additional relief based on the updated record.

⁵ *Part 25 Order* at 12470, para. 220. The two-year grace period began on the effective date of the new rule, which was September 3, 2014. *International Bureau Announces the Effective Date of Rules Adopted in the Part 25 Order*, Public Notice, 29 FCC Rcd 10440 (IB 2014), https://apps.fcc.gov/edocs_public/attachmatch/DA-14-1270A1_Rcd.pdf.

⁶ *Part 25 Order* at 12470, paras. 219-20. The five-year implementation schedule was proposed to accommodate an embedding requirement. Comtech Comments at 13.

⁷ See, e.g., Letter from Tom Graves, U.S. House of Representatives, to Mike Dabbs, Director, Office of Legislative Affairs, FCC, IB Docket No. 12-267 (Dec. 3, 2015); see also Letter from Mindel De La Torre, Chief, International Bureau, FCC, to Tom Graves, U.S. House of Representatives, IB Docket No. 12-267 (Jan. 13, 2016).

⁸ 47 CFR § 1.3. The Commission has charged the International Bureau with administration of its rules concerning satellite systems, including earth stations. 47 CFR §§ 0.51(c), 0.261(a).

⁹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁰ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

¹¹ *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

¹² The date currently found in Section 25.281(b), June 1, 2016, was included in the Federal Register summary of the adopted rule before the rule change was approved by the Office of Management and Budget under the Paperwork Reduction Act, and therefore before the effective date of the rule could be known. 79 FR 8308 (Feb. 12, 2014). It does not reflect fully the grace period adopted by the Commission. The date will be corrected shortly to September 3, 2016.

IV. ORDERING CLAUSE

8. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 303(r) of the Communications Act, 47 U.S.C. §§ 154(i), 303(r), and sections 0.51(c), 0.261(a), and 1.3 of the Commission's rules, 47 CFR §§ 0.51(c), 0.261(a), 1.3, Section 25.281(b) of the Commission's rules, 47 CFR § 25.281(b), IS WAIVED on a blanket basis for a period beginning September 3, 2016, and ending September 3, 2017.

FEDERAL COMMUNICATIONS COMMISSION

Mindel De La Torre
Chief, International Bureau