

ADMINISTRATIVE COUNCIL FOR TERMINAL ATTACHMENTS (ACTA)

MEETING DATE: December 8, 2005

TITLE: Draft Revisions to the ACTA Operating Principles and Procedures (1.7)

SOURCE*: Secretariat

PURPOSE: Decision

DISTRIBUTION TO: Segment Representatives

ABSTRACT

Enclosed is a draft revision (1.7) of the ACTA Operating Principles and Procedures to reflect general corrections in punctuation and formatting, revisions to Section 8 to reflect the executive interface and AOF systems, and the ACTA's website privacy policy.

NOTICE

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Administrative Council for Terminal Attachments (ACTA)
Operating Principles and Procedures
Version 1.7

ACTA is sponsored by the
Telecommunications Industry Association and the
Alliance for Telecommunications Industry Solutions

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1. INTRODUCTION

The Administrative Council for Terminal Attachment (“ACTA”) was established pursuant to the Federal Communication Commission’s (“FCC”) Report and Order in the 2000 Biennial Review of Part 68 of the Commission’s Rules and Regulations, CC Docket No. 99-216, FCC 00-400, adopted November 9, 2000 and released December 21, 2000 (“Order” or “R&O”). The Order privatized the process by which technical criteria for the prevention of harm are established for customer premises or terminal equipment that may be sold for connection to the telephone network, and for the approval of such equipment to demonstrate compliance with the relevant technical criteria. The Order directed the industry, through the co-sponsorship and support of the Telecommunications Industry Association (“TIA”) and the Alliance for Telecommunications Industry Solutions (“ATIS”) to establish the ACTA as the open body that would assume the Commission’s Part 68 role for those items privatized in the Order. (Section 68.602) The initial ACTA meeting was held on May 2, 2001.

2. CHARTER: MISSION, SCOPE and RESPONSIBILITIES

2.1 Mission

The Administrative Council for Terminal Attachment (“ACTA”, “Administrative Council” or “Council”) is an open organization with a mission to: (1) adopt technical criteria for terminal equipment to prevent network harm (as defined in Section 68.3) through the act of publishing such criteria developed by the American National Standards Institute (“ANSI”) accredited standards development organizations; and (2) establish and maintain database(s) of equipment approved as compliant with the technical criteria.

2.2 Scope

The Administrative Council assumes the coordination and management role for the adoption and publication of technical requirements for terminal equipment, and the associated database(s) as further detailed in Section 2.3. The Administrative Council will not make substantive technical decisions regarding the development of technical criteria.

2.3 Responsibilities

The Administrative Council's major responsibilities shall be to perform the following in an equitable and nondiscriminatory manner not permitting any entity or segment of the industry to gain a competitive advantage:

- (1) Provide public notice for thirty (30) days of intent to adopt technical criteria as submitted by an ANSI-accredited standards development organization. (47 C.F.R. § 68.608)
- (2) Adopt and publish technical criteria for customer premises equipment developed by ANSI-accredited standards development organizations. (47 C.F.R. § 68.608)
- (3) Operate and maintain a database of equipment, approved as compliant with the technical criteria, meeting the requirements of the FCC and U.S. Customs Service for enforcement purposes. (47 C.F.R. § 68.610)
- (4) Ensure the database is created and maintained in an equitable and nondiscriminatory manner not permitting any entity or segment of the industry to gain a competitive advantage. (47 C.F.R. § 68.610)
- (5) Establish and maintain an appropriate labeling methodology for terminal equipment. The labeling methodology must meet the requirements of the FCC and the US

- Customs Service for enforcement purposes, as well as provide consumers a method to identify the source and model number of the terminal equipment. (47 C.F.R. § 68.612)
- (6) File with the FCC a detailed report of the database structure and associated procedures. (47 C.F.R. § 68.610)
 - (7) Provide information to the public and respond to inquiries from the public regarding ACTA-published technical criteria and Part 68 technical criteria. (R&O ¶ 53)
 - (8) Coordinate the Industry's notification of technical criteria projects to avoid duplication of effort. (R&O ¶ 55)
 - (9) Manage such other tasks as necessary and within the Administrative Council's scope that were formerly part of the FCC's Part 68 functions.
 - (10) Ensure that the management, activities and decisions of the Administrative Council be independent from all external influences. However, the Administrative Council may arrange for some of its administrative functions (Secretariat, database, etc.) to be performed by external organizations, including the sponsoring organizations, as allowed in the Report and Order, providing that the arrangement that it enters with these organizations is clearly and publicly delineated. (R&O ¶ 39)
 - (11) Maintain a list of agents for service. (47 C.F.R. § 68.418)
 - (12) Specify Customer Instructions. (47 C.F.R. § 68.218 and 68.324)
 - (13) Provide information to the public concerning the ACTA processes and procedures.

3. MEMBERSHIP AND COUNCIL ORGANIZATION

3.1 Membership

Membership in the ACTA is open to any organization, company or group having an interest in the business of the Council. The Membership of the ACTA, at large, shall be represented on the Council by the "Interest Segment Representatives" (as defined below in Section 3.2).

3.1.1 Member Registration

Members shall register with the ACTA Secretariat by submitting a written correspondence declaring an Interest Segment, identifying a "Company/Organization Voting Participant" (as defined below in 3.1.2) and providing contact information for the Company/Organization Voting Participant.

3.1.2 Company/Organization Voting Participant

Each Member shall identify a Company/Organization Voting Participant as that company/organization's primary contact for ACTA-related business. Company/Organization Voting Participants shall vote for the Interest Segment Representatives and Alternate to represent a given Interest Segment on the Council.

3.2. Council Organization - Size and Structure

The Administrative Council shall be comprised of:

- (1) six Interest Segments, each having two voting Interest Segment Representatives and one non-voting alternate;
- (2) non-voting Invited Observers; and
- (3) a non-voting chair.

3.2.1 Interest Segments

Voting members shall be categorized as follows:

- (A) Local Exchange Carriers ("LEC")
- (B) Interexchange Carriers ("IXC")
- (C) Terminal Equipment Manufacturers ("TEM")
- (D) Network Equipment Manufacturers ("NEM")
- (E) Testing Laboratories ("LAB")
- (F) Other Interested Parties (e.g., consumer groups and associations representing individuals with disabilities) ("OIP")

3.2.2 Invited Observers

The non-voting category shall be for "Invited Observers." This category shall initially include Industry Canada (Canada) and Comision Federal de Telecomunicaciones (Mexico) Representatives. The Administrative Council may agree to add other individuals, organizations or entities to the Invited Observers category provided the individual, organization or entity would not appropriately fall into one of the Interest Segments identified in Section 3.2.1.

3.3 Interest Segment Representatives and Alternates

3.3.1 Selection Process

Interest Segment Representatives and Alternates shall be elected by a plurality of votes from their respective Interest Segment Company/Organization Voting Participants. Notice of all elections shall be given via the ACTA Web Site and the appropriate Interest Segment e-mail exploder lists. Nominations shall be accepted from all interested parties provided the nomination is accompanied by: (1) a resume or other document detailing the nominee's applicable experience and (2) a letter of support from the nominee's employer. Ballots shall be distributed and submitted electronically and tallied pursuant to a predefined process detailed in the notice of election. The ACTA Secretariat shall announce the election results. In the event of a tie between any nominees, an election between the tied nominees shall be conducted.

3.3.2 Terms of Office

Interest Segment Representatives and Alternates shall be elected to serve a two-year term or until a successor is elected. An individual shall be limited to serving two consecutive two-year terms, unless there is no interest from another individual within the respective interest segment in which case an individual may serve more than two consecutive two-year terms. In the case where a person is elected to fill a vacancy on the Council, the term of office will expire at the end of the normal two-year term of office that governs the general election period. If the duration of the partial term is less than one year, then that partial term will not count for the purpose of limiting that person to two consecutive two-year terms.

3.3.3 Responsibilities

Interest Segment Representatives and Alternates are expected to participate in all Administrative Council activities and to represent the interests of their respective interest segments. Interest Segment Representatives and Alternates are expected to be prepared and knowledgeable of the issues before the Council in order to allow for an effective discussion, examination and ultimate resolution. The Interest Segment Alternates shall fully participate but only vote in the absence or disability of either Representative from that Interest Segment.

3.3.4 Vacancies

In the event that an Interest Segment Representative position becomes vacant, the Alternate for that given Interest Segment shall assume the Representative position for the remainder of the vacated term. In the event that an Alternate position becomes vacant or a Representative position becomes vacant and there is no Alternate to assume the position, the Administrative Council shall conduct an election to fill the vacated term.

3.4 Chair

3.4.1 Selection Process

The chair shall be elected by a plurality of the Interest Segment Representatives present at the time of the election. No proxies will be accepted. Notice of an election for chair shall be given via the ACTA Web Site and the Interest Segment e-mail exploder lists. Nominations shall be accepted from all interested parties provided the nomination is accompanied by: (1) a resume or other document detailing the nominee's applicable experience and (2) a letter of support from the nominee's employer. The ballot shall be conducted in secret and the ballots shall be tallied and the winner announced by the ACTA Secretariat. In the event of a tie between any nominees, an election between the tied nominees shall be conducted.

3.4.2 Term of Office

The chair shall be elected to serve a two-year term or until a successor is elected. An individual shall be limited to serving two consecutive two-year terms, unless there is no interest from another individual in which case an individual may serve more than two consecutive two-year terms.

3.4.3 Responsibilities

The chair shall preside at all meetings of the Administrative Council after the first and ensure that the principles and procedures set forth in this document are adhered to. The chair shall also perform such other duties and exercise such other powers as may be necessary to enact the business of the Administrative Council or as prescribed from time to time by the Administrative Council. The chair shall not use the position to influence the decision-making process of the Administrative Council.

3.4.4 Vacancy

In the event that the chair position becomes vacant, the Administrative Council may temporarily appoint an acting-chair to preside until the next full meeting of the Administrative Council during which an election must take place. The acting-chair must not be an Interest Segment Representative or Alternate.

4. MEETINGS

Meetings of the Administrative Council may be face-to-face or via conference call and virtual meeting technologies. Meetings are open to all interested parties. Face-to-face meetings of the Administrative Council shall typically be held in the Washington, D.C. metropolitan area.

4.1 Meeting Schedule

The Administrative Council shall establish a meeting schedule based upon need but in no event to be less than four meetings per year. Once determined, the meeting schedule shall be posted to the ACTA web site.

4.2 Quorum Requirement

A quorum for conducting official business of the ACTA shall consist of:

- A. At least one representative from a majority of the interest segments, and
- B. A majority of the total number of Interest Segment Representatives.

Proxies are not permitted.

4.3 Meeting Notification and Agenda

A meeting notification and draft agenda shall be posted to the ACTA web site at least 30 days in advance of all regularly scheduled ACTA meetings.

4.4 Contributions to Meetings

All contributions and proposals for ACTA action shall be submitted to the Secretariat no later than ten days prior to the meeting at which action is anticipated. The Secretariat will distribute all contributions received to the entire Council membership no later than one week prior to the meeting at which action is anticipated. Contributions submitted after that deadline may be deferred for later action.

4.5 Special/Emergency Meetings

Special or Emergency meetings may be called by the chair or by the written request of at least one-third of the Interest Segment Representatives. The purpose of the meeting shall be stated in the meeting notification and, except in cases of emergency, the meeting notification should be issued at least 30 days in advance of face-to-face meetings and at least 10 days in advance of conference calls.

4.6 Meeting Notes

Meeting notes shall be recorded for all ACTA meetings. The meeting notes shall serve as the official record. The meeting notes shall include, at a minimum, an agenda as amended and approved at the meeting; an attendee register; and a summary of the points noted, agreements reached and action items for each agenda item. The meeting notes shall be approved by the chair and then published on the ACTA web site within fifteen (15) business days from the close of the meeting.

5. VOTING

Each Interest Segment Representative, or an Alternate when acting as an Interest Segment Representative in the absence or disability of that Representative, shall have one vote in all ACTA matters. Voting shall be conducted by the chair. Action shall require both: (1) a quorum, and (2) two-thirds of votes cast, not counting abstentions.

6. SPONSORS and SECRETARIAT SUPPORT

6.1 Sponsors

The Telecommunications Industry Association ("TIA") and the Alliance for Telecommunications Industry Solutions ("ATIS") shall jointly sponsor the ACTA.

6.1.1 Responsibilities

The sponsors shall ensure that the ACTA is populated in a manner consistent with the criteria of the American National Standards Institute for a balanced and open membership. The sponsors shall also fulfill the Secretariat functions as defined by the ACTA.

6.1.2 Term

TIA and ATIS shall serve in the roles of sponsor of the ACTA for four years from the effective date (January 24, 2001) of the FCC rules assigning the role (47 C.F.R. § 68.602). TIA and ATIS shall continue in the roles of sponsors beyond the initial four-year term unless the Administrative Council directs otherwise.

6.2 Secretariat Support

The sponsors shall provide the administrative, secretarial and other necessary support as defined by the ACTA and pursuant to written agreement.

6.2.1 Administrative Support

The Secretariat duties shall include those assigned by the ACTA. The following is an illustrative, not exclusive list.

- ◆ Maintenance of official Membership and Company/Organization Voting Participants rosters;
- ◆ Development and maintenance of the ACTA Web Site and e-mail exploder lists;
- ◆ Meeting planning and registration;
- ◆ Publish technical criteria;
- ◆ Publish informational documents;
- ◆ Document distribution and publication;
- ◆ Recording meeting notes; and
- ◆ Other duties as assigned by the ACTA

6.2.2 Database Maintenance and Support

The Secretariat duties, in the context of the database maintenance and support, shall include:

- ◆ Processing of forms/applications
- ◆ Processing of SDOCs and TCB certifications
- ◆ Processing requests for Grantee codes
- ◆ Ensuring public accessibility to necessary information

6.2.3 Additional Responsibilities

The ACTA Secretariat shall attend all meetings of the Council and have primary responsibility for carrying out the directives of the ACTA, including the day-to-day management of its activities and oversight of all Secretariat duties. The ACTA Secretariat shall ensure that the Council abides by these Operating Principles and

Procedures and may facilitate Council meetings in the absence of the chair. The ACTA Secretariat should have a comprehensive and working knowledge of the telecommunications industry and the terminal equipment certification process.

The Secretariat's essential duties and responsibilities will include:

- ♦ Provide ongoing support, guidance, and advice to the Council in the development, implementation and achievement of the strategic objectives and direction. Develop principles and procedures for operating open industry forums and advise Council leadership and participants with respect to the implementation of these principles and procedures. Ensure adherence to the Council's charter and administrative practices, issue management and organizational structure reports and recommend appropriate action to improve overall effectiveness and efficiency.
- ♦ Identify and conduct detailed studies on a variety of topics to assist the Council with strategic direction and help to ensure its long-term viability.
- ♦ Work closely with the Council to identify problem areas and develop and implement appropriate action plans to address these concerns. Support special projects the Council may want to undertake and present additional areas of support the Secretariat may provide the Council.
- ♦ Administer appropriate Secretariat support. Identify specific support requirements of the Council, train staff to adequately meet those requirements and supervise the staff directly responsible for providing these services. When requested or when necessary and appropriate, assume leadership role(s) that enable progress and consensus resolutions to be achieved.
- ♦ Develop the budget and manage the finances of the Council, including identification and development of cost recovery mechanisms and models, development of cost/benefit analysis, recommendations of dues amount alternatives and resultant impacts, and identification of potential problems and pro-active steps to avoid such problems. Provide periodic reports on Council costs, annualize results and secure appropriate funding for Secretariat support.
- ♦ Initiate action plans that increase awareness of the Council and the issues being addressed. Develop appropriate mechanisms such as brochures, newsletters and Part 68 web home page material that promote the value of the Council, provide information about its mission and objectives and serve as an information resource of the Council's activities and resolutions for the industry. Also included in this effort is the development and implementation of the Part 68 web site and links to other appropriate sites (*i.e.*, ATIS, TIA.)
- ♦ Represent and speak on behalf of the Council at both national and international conferences, seminars and meetings as well as before the FCC and other government organizations and agencies at the direction of the Council.

The ACTA Secretariat shall not use the position to unduly influence the decision-making process of the Administrative Council.

7. INTELLECTUAL PROPERTY

Except as otherwise provided herein, all intellectual property rights (IPR), including without limitation all copyrights, trademarks, service marks, patents and trade secret rights claimed in documents submitted to the ACTA shall remain the property of the submitting party or entity and the ACTA shall not claim any rights thereto. As a condition to submitting documents to the

ACTA, however, the submitting party or entity must grant the ACTA a license to reproduce and distribute consistent with the processes defined in Appendix A for technical criteria and Appendix C for informational documents and allow the ACTA to permit third parties a single download of the document, or any portion thereof, for purposes of publication to interested parties.

8. ACTA WEB SITE AND EXPLODER LISTS

All ACTA documentation and information shall be distributed electronically via the ACTA Web Site and the e-mail exploder lists.

8.1 ACTA Web Site

The ACTA Web Site homepage is at: www.part68.org. The web site contains all public Council meeting materials (e.g., meeting agendas, contributions, meeting records, and calendar), ACTA publications, and information/instructions regarding the equipment approval process. The ACTA Web Site will also serve as the primary vehicle for the ACTA publication of both proposed technical criteria, pursuant to the 30 day public notice period prescribed in 47 C.F.R. § 68.608, and final adopted technical criteria. The ACTA Web Site will also be the primary vehicle for the ACTA publication of both proposed informational documents and final adopted informational documents.

8.1.1 ACTA Web Site Executive Interface

The ACTA Web Site includes an executive interface. This portion of the ACTA website is accessible to the ACTA Secretariat, Sponsors, and Interest Segment Representatives. This portion of the ACTA website will contain Council executive meeting materials (e.g., meeting agendas, contributions, working documents and calendars). Use of, or attempted fraudulent access to the Executive Interface by persons other than those explicitly stated is strictly prohibited.

8.1.2 ACTA Online Filing (AOF) System

The ACTA Website includes the ACTA Online Filing (AOF) System. This system allows for the online filing of approved terminal equipment to the ACTA database. Use of the AOF system is restricted to those persons who conform to the criteria listed in the *Guidelines & Procedures for Submittal of Information to the ACTA for Inclusion in the Database of Approved Telephone Terminal Equipment*. Use of, or attempted fraudulent access to the AOF System by those persons other than authorized filers is strictly prohibited.

8.1.3 ACTA Website Privacy Statement and Policies

The latest version of the ACTA Website Privacy Statement and Policies are available on the ACTA website at www.part68.org/privacy.aspx.

8.2 E-Mail Exploder Lists

The Secretariat shall provide and maintain exploder lists for email communication and the conduct of ACTA business. Each exploder list, its purpose, and restrictions on its membership are described below:

List Name	Purpose	Restriction
acta-gen	General Notification and Communication to the membership (e.g., Council meetings, posted materials)	None – Open to all interested parties including members of lists identified below
acta-isreps	Vehicle for the Council to conduct business and for the Interest Segment Representatives and Alternates, Chair, Secretariat, and Sponsors to communicate with each other.	Limited to Interest Segment Representatives and Alternates, Chair, Invited Observers, Secretariat, and Sponsors
acta-lec	Vehicle for LEC Interest Segment Representatives and Alternates to communicate ACTA business to LEC Interest Segment	Limited to LEC Interest Segment Voting Participants, Representatives and Alternates
acta-ixc	Vehicle for IXC Interest Segment Representatives and Alternates to communicate ACTA business to IXC Interest Segment	Limited to IXC Interest Segment Voting Participants, Representatives and Alternates
acta-nem	Vehicle for NEM Interest Segment Representatives and Alternates to communicate ACTA business to NEM Interest Segment	Limited to NEM Interest Segment Voting Participants, Representatives and Alternates
acta-tem	Vehicle for TEM Interest Segment Representatives and Alternates to communicate ACTA business to TEM Interest Segment	Limited to TEM Interest Segment Voting Participants, Representatives and Alternates
acta-lab	Vehicle for LAB Interest Segment Representatives and Alternates to communicate ACTA business to LAB Interest Segment	Limited to LAB Interest Segment Voting Participants, Representatives and Alternates
acta-oip	Vehicle for OIP Interest Segment Representatives and Alternates to communicate ACTA business to OIP Interest Segment	Limited to OIP Interest Segment Voting Participants, Representatives and Alternates

8.2.1 Subscribing to an E-mail Exploder List

Parties may subscribe to an ACTA e-mail exploder list by sending an e-mail to majordomo@lists.atis.org. The subject line of the e-mail must read “subscribe” and the body of the message must read “subscribe <insert list name>”. Subscribing parties will receive a confirmation via e-mail.

Example: Address to: majordomo@lists.atis.org
 Subject: subscribe
 Body Text: subscribe acta-gen

8.2.2 Sending a Message to an E-mail Exploder List

Parties may send e-mail messages to an ACTA e-mail exploder provided that the subject matter is relevant to the work of the Council. The e-mail must: (1) be addressed to "<list name>@lists.atis.org; (2) contain a descriptive subject line; and, (3) contain information relevant to the work of the ACTA. The ACTA e-mail exploder lists shall not be utilized to disseminate solicitations, product endorsements, proprietary information or other legally sensitive information.

Example: Address to: acta-all@lists.atis.org

9. APPEALS PROCESS

Individuals and entities possessing directly and materially affected interests and believing that they have been or will be adversely affected by the actions or inaction of the ACTA shall have the right to appeal such action or inaction. However, should the action or inaction at issue be one relating to the activities of a Standards Developing Organization ("SDO") submitting technical criteria to the ACTA, the appeals processes afforded by that SDO must be utilized. Further, should the action or inaction at issue be one relating to the process by which an American National Standard or proposed American National Standard was developed, the American National Standards Institute ("ANSI") appeals process must be utilized.

In the case of action or inaction appropriate for the ACTA appeals process, individuals and entities are encouraged to first approach the ACTA leadership with an informal complaint before pursuing the official appeals process detailed in this section.

9.1 Complaint

The appealing party shall file a written complaint with the Secretariat within thirty days after the date of notification of action or at any time with respect to inaction. The complaint shall state the nature of the objections, including any adverse effects, the section of these Operating Principles and Procedures or other ACTA document that may be at issue, the action or inaction itself, and the specific remedial actions that would satisfy the appealing party's concerns. Previous efforts to resolve the objections and the outcome of each shall be noted.

9.2 Response

Within thirty days after receipt of the complaint, a written response shall be issued to the appealing party by the ACTA chair or the Secretariat specifically addressing each allegation of fact in the complaint.

9.3 Hearing

If the parties are unable to resolve the written complaint informally in a manner consistent with these Operating Principles and Procedures, the Secretariat shall schedule a hearing with an appeals panel on a date agreeable to all participants, giving at least ten working days notice.

9.4 Panel

The ACTA Secretariat will provide the appealing party a list of individuals who have agreed to be considered as candidates to serve on the ACTA appeals panel. This list will include individuals with standards or other equivalent industry forum experience. The appeals panel shall consist of three individuals who have not been directly involved in the matter in dispute, and who will not be materially or directly affected by any decision made or to be made in the dispute. At least two members shall be acceptable to the appealing party and at least two shall

be acceptable to responding party. A questionnaire seeking background information and potential bias will be served on possible candidates for the appeals panel and copies will be made available to the appealing party. Initially, each side, starting with the appealing party, shall alternately strike a name from the list, until only one remains and that candidate shall be the chair of the appeals panel. Each party will then select one other name from the list.

The ACTA Secretariat will provide each member of the appeals panel with a copy of the complaint filed pursuant to section 9.1 above, a copy of these Operating Principles and Procedures, and any meeting notes pertaining to the matter. The appeals panel may serve questions to the parties before the hearing to assist in focusing the issue. Any answers received will be made available to the other party and that party will be allowed to submit a brief response.

No party will communicate with any member of the appeals panel once convened and until a decision has been rendered except as provided for in this section 9.

9.5 Conduct of Hearing

The appealing party has the burden of demonstrating adverse effects, improper actions or inactions, and the efficacy of the requested remedial action. The respondent has the burden of demonstrating that the Council and the Secretariat took all actions in compliance with these Operating Principles and Procedures and that the requested remedial action would be ineffective or detrimental. Each party may adduce other pertinent arguments, and members of the appeals panel may address questions to individuals.

The hearing shall be conducted in an informal manner and subject to such rules as the appeals panel sets forth. The appeals panel and the parties shall not be bound by any formal rules of evidence. Representatives of other interested parties shall be allowed to observe the hearing but will not be permitted to directly participate unless requested to participate by the appeals panel.

9.6 Decision

The appeals panel shall render its decision in writing within thirty days, stating findings of fact and conclusions, with reasons therefore, based on a preponderance of the evidence. Consideration may be given to the following position, among others, in formulating the decision: (1) finding for the appealing party, remanding the action to the Council or the Secretariat with a specific statement of the issues and facts in regard to which fair and equitable action was not taken; (2) finding for the respondent, with a specific statement of the facts that demonstrate fair and equitable treatment of the appealing party and the party's objections; (3) finding that new, substantive evidence has been introduced, and remanding the entire action to the Council or the Secretariat for appropriate reconsideration.

9.7 Further Appeal

Any party believing that a fair and equitable decision was not rendered through the above appeals process may appeal to the Federal Communications Commission as provided for in 47 C.F.R. § 68.614.

10. PUBLICATION OF DOCUMENTS BY THE ACTA

Section 10.1 applies to all documents adopted and published by the ACTA. Section 10.2 provides additional requirements for the submission, public notice period, and publication of

technical criteria documents and Section 10.3 provides additional requirements for the submission, public notice period, and publication of informational documents.

Section 10.4 provides procedures for the submission and consideration of oppositions/comments during the 30-day public notice period for both technical criteria documents and informational documents. Section 10.5 covers appeals of technical criteria after publication by the ACTA and Section 10.6 covers appeals of technical criteria that are former FCC rules.

For purposes of this Section, the term "publish" in the context of technical criteria documents, is limited to the acts of web site posting for public notification and subsequent posting as an ACTA-adopted technical criteria file for free-download from the ACTA web site.

10.1 Publication Policies and Requirements

10.1.1 Product and Technology Neutrality Policy

The ACTA does not recommend products or technologies. Nothing contained in any document adopted and published by ACTA shall violate this policy or be construed as conferring by implication or otherwise that the ACTA is recommending any specific product or technology to anyone.

10.1.2 Patent Policy

Nothing contained in any document adopted and published by ACTA should be construed as conferring by implication, estoppel or otherwise, any license or right under any patent, whether or not the use of any information in the ACTA-adopted document necessarily employs an invention of any existing or later issued patent.

10.1.3 Publication Requirements

Documents adopted and published by the ACTA shall have the ACTA-adopted logo and date affixed to the front cover and shall include the appropriate preface and disclaimer text in the format provided in Appendix E prior to publication as an ACTA-adopted document.

10.2 Technical Criteria Documents

The ACTA shall adopt and publish technical criteria documents submitted by ANSI-accredited standards development organizations (SDOs). Each individual document in a family of documents that make up a terminal equipment technical criteria standard shall be submitted and processed as a technical criteria document.

10.2.1 FCC Requirements

The requirements for technical criteria submitted to the ACTA and the requirements for SDOs that develop and submit technical criteria to the ACTA have been established by the FCC in 47 C.F.R. § 68.604.

10.2.2 Submission Procedures

The ACTA submission procedures for technical criteria documents are provided in Appendix A. A sample cover letter for technical criteria document submission is provided in Appendix B.

10.2.3 Public Notice

The ACTA shall issue a public notice of its intent to adopt and publish proposed technical criteria and make the technical criteria available for public download and

review from the ACTA website (e.g., www.part68.com) for a 30-day comment period as established by the FCC in 47 C.F.R. § 68.608.

Parties aggrieved by the submitting SDO's decision to submit technical criteria to the ACTA for publication must appeal the decision through the SDO's ANSI-accredited appeal procedures.

During the 30-day public notice period, interested parties may appeal any aspect of the proposed technical criteria to the SDO or to the FCC. Parties appealing the proposed criteria must also provide notice of its appeal to the ACTA. Procedures for filing comments, whether appeals, oppositions, or general comments, are provided in Section 10.4.

If no appeals or comments are filed within the allotted 30 days, the ACTA will adopt and publish the technical criteria and, as established by the FCC in § 68.7(b), it will become the presumptively valid technical criteria for the protection of the telephone network from harms caused by the connection of terminal equipment. The ACTA will advise the SDO of the ACTA publication requirements in Section 10.1.3.

10.3 Informational Documents

The ACTA may develop, adopt, and publish informational documents and it may adopt and publish informational documents that are submitted to it by ANSI-accredited SDOs. The ACTA will advise the SDO of the ACTA publication requirements in Section 10.1.3.

The ACTA may discontinue the publication of any ACTA-adopted informational document at any time for any reason. If the formulating committee was an SDO, the ACTA shall notify the SDO of the discontinuance in writing so the SDO can remove the ACTA-adopted logo and ACTA disclaimers prior to re-publication.

10.3.1 Requirements for Informational Documents Submitted by ANSI-accredited SDOs

Informational documents submitted by ANSI-accredited SDOs to ACTA for adoption and publication shall meet all of the following criteria:

- (1) The document shall be related to terminal equipment as defined in 47 C.F.R. Part 68.
- (2) The purpose and intent of the informational document shall fall within the mission, scope, or responsibilities of the ACTA as defined in the ACTA Principles and Procedures.
- (3) The document shall not conflict with Part 68 or any ACTA-published technical criteria, with any technical criteria submitted to and pending for publication by ACTA, or with ACTA principles, procedures, or methods.
- (4) The document shall be educational or informational in nature, shall not contain any technical requirements, shall be carefully written in a manner such that nothing in the document can be reasonably construed as being an ACTA requirement, and the document shall not contain the words "shall" or "must" unless quoting appropriately cited text containing those words.

10.3.2 Requirements for SDOs Submitting Informational Documents

The submitting SDO shall be ANSI-accredited and in good standing under the ANSI Standards Committee Method or the Organization Method and shall have been during

the development of the submitted document and the submitted document shall have been developed in accordance with applicable ANSI requirements.

SDOs submitting informational documents to the ACTA for adoption and publication are encouraged to conduct an ongoing review of such documents and notify ACTA when information in the document becomes incorrect, outdated, or in conflict with Part 68, technical criteria published by the ACTA, ACTA operating principles and procedures, or ACTA terminal equipment approval methods and procedures.

10.3.3 Informational Document Submission Procedures

The submission procedures for informational documents are provided in Appendix C. A sample cover letter for informational document submission is provided in Appendix D.

10.3.4 ACTA Review, Public Notice and Final Approval

The ACTA shall review the submitted informational document and vote whether or not to issue a 30-day public notice of its intent to adopt and publish the proposed informational document.

If the ACTA does not approve the informational document for a 30-day public notice period, it shall notify the SDO of the reason in writing.

If a 30-day public notice period is approved, the ACTA shall issue a public notice on the ACTA website of its intent to adopt and publish the proposed informational document and shall make the document available for public download and review from the ACTA website (e.g., www.part68.org) for a 30-day comment period.

Parties have 30 days to file comments, whether appeals, oppositions, or general comments, with the ACTA. The procedures for filing comments are provided in Section 10.4.

After the 30-day public notice period, the ACTA shall consider all filed comments and vote to adopt or reject the document. If the ACTA does not adopt the informational document after the public notice period, it shall notify the SDO of the reason in writing. The SDO can choose to modify the informational document to address some or all of the concerns noted by the ACTA and resubmit it again for ACTA consideration.

10.4 Procedures Related to Comments Submitted During Public Notice Period

The authoring SDO and the ACTA must receive comments, whether appeals, oppositions or general comments, within the 30-day public notice period in order for the comments to be considered prior to publication of the document by the ACTA.

Comments may be submitted to the ACTA by letter, facsimile, or e-mail.

Parties filing comments must include the name of the submitter, the submitter's contact information, a detailed explanation of the comment(s), and the requested remedy. Information submitted to the ACTA in connection with filed comments will be made available to the general public.

10.4.1 Submission of Comments to the SDO

Comments, including appeals, oppositions, and general comments, submitted by interested parties to the SDO during the ACTA 30-day public notice period, must conform to the submission requirements of the authoring SDO.

The ACTA reserves the right to submit comments, including appeals, oppositions, or general comments, to the authoring SDO, prior to or during the 30-day public notice period, when the document in part or in whole impacts the ACTA's administrative

functions. Alternatively, the ACTA reserves the right to file comments directly with the FCC for *de novo* review in accordance with § 68.614(b).

If comments submitted by the ACTA to the authoring SDO during the 30-day public notice period are not resolved to the satisfaction of the ACTA, the ACTA reserves the right to delay publication of the document pending an FCC *de novo* review in accordance with § 68.614(a).

10.4.2 Notice of SDO Meetings to Consider Comments

In order to encourage and expedite the resolution of comments, including appeals, oppositions, and general comments, by the authoring SDO, SDO meetings to consider comments filed during the ACTA 30-day public notice period should be open to any party that submits comments and any party that is materially affected by the proposed document, even if such parties are not members of the authoring SDO or did not submit comments to the SDO. To encourage participation, the ACTA, when feasible, will make available on its website advance notice of the SDO meeting to resolve comments and the proposed agenda for the meeting.

10.4.3 Procedures for Notifying the ACTA of Comment Resolution Status

If the authoring SDO decides (a) to make no changes to its document in response to comments filed during the ACTA 30-day public notice period or (b) to make editorial non-substantive changes to its document in response to comments, the SDO shall notify the ACTA by letter, facsimile, or e-mail that (1) all comments have been considered, (2) no changes or only editorial non-substantive changes have been made to the document, and (3) the ACTA may proceed with publication. In such cases, the ACTA will advise the SDO of the ACTA publication requirements in Section 10.1.3.

If the SDO decides to make technical or substantive changes to the document as a result of comments filed during the ACTA 30-day public notice period, the procedures of the ANSI-accredited SDO with regard to a default letter ballot may be applicable. ANSI procedures regarding an additional ANSI review period may also be applicable. If the SDO makes technical or substantive changes to the document as a result of comments filed during the ACTA 30-day public notice period, the SDO shall notify the ACTA by letter, facsimile, or e-mail that they are withdrawing the document in order to disqualify publication by the ACTA of the original document submitted to the ACTA.

The preceding paragraph does not prohibit the authoring SDO from resubmitting a revised document for a new 30-day ACTA public notice period after it has completed its default letter ballot and additional ANSI review period if applicable.

10.4.4 ACTA Appeal of SDO Comment Consideration Decisions

If comments, including appeals, oppositions, and general comments, submitted by the ACTA to the authoring SDO, prior to or during the 30-day public notice period, pertaining to the administrative functions of the ACTA are not resolved to the satisfaction of the ACTA, the ACTA reserves the right to delay publication of the document pending an FCC *de novo* review in accordance with § 68.614(a).

10.5 Appeals of Technical Criteria After Publication by the ACTA

If the ACTA receives an appeal regarding published technical criteria, the ACTA shall refer the matter to the authoring SDO and impose a time limitation for resolving the objection. Should the authoring SDO fail to successfully resolve the appeal within the allotted timeframe, the party filing the objection must exhaust its appeal process through ANSI, if applicable. The scope of

ANSI's review will be limited to the authoring SDO's ANSI procedures by which the technical criteria were developed. ANSI will not review the merits of the published technical criteria itself. Alternatively, the objecting party may file a request for *de novo* review by the FCC.

Technical criteria adopted and published after the 30-day public notice period will be deemed to be presumptively valid technical criteria for the protection of the telephone network from harms caused by the connection of terminal equipment and will remain so during appeal, unless they are subsequently invalidated by the authoring SDO, the ACTA, ANSI, or the FCC. (See Federal Communications Commission, *In the Matter of 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations, Order on Reconsideration in CC Docket No. 99-216*, released: April 10, 2000.)

10.6 Appeals of Technical Criteria That Are Former FCC Rules.

If a party files an objection with the ACTA to original technical criteria (*i.e.*, a former Part 68 rule), the ACTA shall coordinate with interested parties to have an ANSI-accredited SDO address the objections under ANSI procedures. (See Federal Communications Commission, *In the Matter of 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations*, CC Docket No. 99-216, *Report and Order*, released: December 21, 2000; paragraph 73.)

11. REVISIONS TO THE OPERATING PRINCIPLES AND PROCEDURES

These Operating Principles and Procedures are maintained by the ACTA. Proposed revisions to these Operating Principles and Procedures should be written and submitted to the ACTA Secretariat along with rationale supporting the requested change. The ACTA Secretariat will present the proposed revisions to the ACTA for review, consideration and ultimate decision. Any approved revisions to these Operating Principles and Procedures will be effective upon publication.

Appendix A - Technical Criteria Submission Procedures

As provided for in 47 C.F.R. § 68.604, any ANSI-accredited standards development organization ("SDO"), observing ANSI consensus decision-making procedures, may establish technical criteria and submit such criteria to the ACTA. When submitting technical criteria, the SDO must certify, in writing, that:

- (1) the submitting standards development organization is ANSI-accredited to the Standards Committee Method or the Organization Method (or their successor Methods as amended from time to time by ANSI;
- (2) the technical criteria that it proposes for publication do not conflict with any published technical criteria or with any technical criteria submitted and pending for publication
- (3) the technical criteria that it proposes for publication are limited to preventing harms to the public switched telephone network, identified in § 68.3 of Part 68; and
- (4) the technical criteria were developed in accordance with ANSI requirements for consensus and due process.

Submission Procedures

SDOs submitting technical criteria to the ACTA shall observe the following procedures:

- (1) All submissions shall be sent to the ACTA Secretariat at the following address:
ACTA Secretariat
c/o ATIS
1200 G Street, NW
Suite 500
Washington, DC 20005
or,
acta@atis.org
- (2) All submissions must be provided in PDF format and accompanied by a signed cover letter including: SDO point of contact, identification of technical criteria submitted, the necessary certifications as identified in 47 C.F.R. §68.604, a grant of permission to the ACTA Secretariat providing for the distribution, reproduction and publication of the technical criteria and, a representation of rights in the submitted technical criteria. A sample cover letter is provided as Appendix B.

Appendix B – Sample Technical Criteria Submission Cover Letter

Date

ACTA Secretariat
c/o ATIS
1200 G Street, NW
Suite 500
Washington, DC 20005

RE: Technical Criteria Submission - *<insert title of technical criteria or other identification>*

ACTA Secretariat:

The *<SDO name>* submits the technical criteria identified above for publication and adoption by the ACTA. In doing so, and pursuant to 47 C.F.R. § 68.604, *<SDO name>* hereby certifies that: (1) the organization is ANSI-accredited and in good standing under the Standards Committee Method or the Organization Method and has been during the development of the submitted technical criteria; (2) the submitted technical criteria does not conflict with any published technical criteria or with any technical criteria submitted and pending for publication (as determined through the public process observed in developing the submitted technical criteria); (3) the submitted technical criteria are limited to preventing harms to the Public Switched Telephone Network as identified in § 68.3; and, (4) the criteria were developed in accordance with applicable ANSI requirements.

The *<SDO name>* hereby grants the ACTA Secretariat the right to reproduce, distribute and publish the submitted technical criteria identified above (the “Material”) for the limited purpose of public notification pursuant to 47 C.F.R. § 68.608 and subsequent publication as adopted technical criteria for terminal equipment and to include the provision of free-downloads from the ACTA web site (the “Limited Purpose”) (the “Grant”).

In connection with the Grant, *<SDO name>* hereby represents and warrants that it owns all rights to the Materials, including as respects all copyrights thereto, or otherwise is authorized to grant such rights as respects the Materials, and all matters contained therein, to the ACTA Secretariat for the Limited Purpose. *<SDO name>* further represents and warrants that the Grant, and the ACTA Secretariat’s use of the Materials consistent with the Grant, will not violate any rights of any third-party. *<SDO name>* agrees to hold harmless and indemnify the Administrative Council for Terminal Attachments, the ACTA Secretariat, its sponsors, and all persons acting on its behalf, of and from any and all claims, liabilities, costs and expenses (including reasonable attorneys’ fees) arising from, relating to or incurred as the result of any use of the Materials by the ACTA Secretariat consistent with the Grant.

Any questions regarding this submission shall be directed to *<insert SDO contact name and information>*.

Appendix C - Informational Document Submission Procedures

Any ANSI-accredited standards development organization ("SDO"), observing ANSI consensus decision-making procedures, may develop an informational document and submit such document to the ACTA for adoption and publication. When submitting an informational document, the SDO must certify, in writing, that:

- (1) The submitting SDO is ANSI-accredited and in good standing under the Standards Committee Method or the Organization Method and has been during the development of the submitted document;
- (2) The submitted document was developed in accordance with ANSI requirements;
- (3) The submitted document is related to terminal equipment as defined in 47 C.F.R. Part 68;
- (4) The purpose and intent of the submitted document falls within the mission, scope, or responsibilities of ACTA as defined in the ACTA Operating Principles and Procedures;
- (5) The submitted document does not conflict with Part 68 or any ACTA-published technical criteria, with any technical criteria submitted to and pending for publication by ACTA, or with ACTA principles, procedures, or methods;
- (6) The submitted document is educational or informational in nature, does not contain any technical requirements, has been carefully written in a manner such that nothing in the document can be reasonably construed as being an ACTA requirement, and the document does not contain the words "shall" or "must" unless quoting appropriately cited text containing those words.

Submission Procedures

Entities submitting technical criteria to the ACTA shall observe the following procedures:

- (1) All submissions shall be sent to the ACTA Secretariat at the following address:
ACTA Secretariat
c/o ATIS
1200 G Street, NW
Suite 500
Washington, DC 20005
or,
acta@atis.org
- (2) All submissions must be provided in PDF format and accompanied by a signed cover letter that includes: Point of contact, identification of document submitted, the necessary certifications as identified in ACTA procedures, a grant of permission to the ACTA Secretariat providing for the distribution, reproduction and publication of the document, and a representation of rights in the submitted document. A sample cover letter for informational submissions is provided as Appendix D.

Appendix D – Sample Informational Submission Cover Letter

Date

ACTA Secretariat
c/o ATIS
1200 G Street, NW
Suite 500
Washington, DC 20005

RE: Informational Document Submission - *<insert title of document or other identification>*

ACTA Secretariat:

The *<SDO name>* submits the informational document identified above for adoption and publication by the ACTA. In doing so, *<SDO name>* hereby certifies that: (1) The submitting SDO is ANSI-accredited and in good standing under the Standards Committee Method or the Organization Method and has been during the development of the submitted document; (2) The submitted document was developed in accordance with applicable ANSI requirements; (3) The submitted document is related to terminal equipment as defined in 47 C.F.R. Part 68; (4) The purpose and intent of the submitted document falls within the mission, scope, or responsibilities of ACTA as defined in the ACTA Operating Principles and Procedures; (5) The submitted document does not conflict with Part 68 or any ACTA-published technical criteria, with any technical criteria submitted to and pending for publication by ACTA, or with ACTA principles, procedures, or methods; (6) The submitted document is educational or informational in nature, does not contain any technical requirements, has been carefully written in a manner such that nothing in the document can be reasonably construed as being an ACTA requirement, and the document does not contain the words "shall" or "must" unless quoting appropriately cited text containing those words.

The *<SDO name>* hereby grants the ACTA Secretariat the right to reproduce, distribute and publish the submitted document identified above (the "Material") for the limited purpose of public notification and subsequent publication as an ACTA-adopted informational document and to include the provision of free-downloads from the ACTA web site (the "Limited Purpose") (the "Grant").

In connection with the Grant, *<SDO name>* hereby represents and warrants that it owns all rights to the Materials, including as respects all copyrights thereto, or otherwise is authorized to grant such rights as respects the Materials, and all matters contained therein, to the ACTA Secretariat for the Limited Purpose. *<SDO name>* further represents and warrants that the Grant, and the ACTA Secretariat's use of the Materials consistent with the Grant, will not violate any rights of any third-party. *<SDO name>* agrees to hold harmless and indemnify the Administrative Council for Terminal Attachments, the ACTA Secretariat, its sponsors, and all persons acting on its behalf, of and from any and all claims, liabilities, costs and expenses (including reasonable attorneys' fees) arising from, relating to or incurred as the result of any use of the Materials by the ACTA Secretariat consistent with the Grant.

Any questions regarding this submission shall be directed to *<insert SDO contact name and information>*

Appendix E – Preface and Disclaimer Text

Technical Criteria Preface:

PREFACE

This document, < *insert document name* > has been established pursuant to the Federal Communication Commission's ("FCC") Report and Order in the 2000 Biennial Review of Part 68 of the Commission's Rules and Regulations, CC Docket No. 99-216, FCC 00-400, adopted November 9, 2000 and released December 21, 2000 ("Order" or "R&O"). The Order privatized the process by which technical criteria for the prevention of harm are established for customer premises or terminal equipment that may be sold for connection to the telephone network, and for the approval of such equipment to demonstrate compliance with the relevant technical criteria. The Order directed the industry to establish the Administrative Council on Terminal Attachments ("ACTA") as the balanced and open body that would assume the Commission's Part 68 role for those items privatized in the Order (Section 68.602). This document was created for submission to ACTA by < *insert SDO name* >. It is intended to fulfill the FCC's requirement to establish technical criteria for Telephone Terminal Equipment.

Informational Document Preface:

PREFACE

This document, < *insert document name* > was created for submission to the Administrative Council on Terminal Attachments ("ACTA") by < *insert SDO name* >. This document is informational in nature and does not contain technical criteria or any ACTA requirements of any kind.

Disclaimer Notice:

Notice of Disclaimer and Limitation of Liability

THE INFORMATION PROVIDED IN THIS DOCUMENT IS PROVIDED "AS IS" AND "AS AVAILABLE." SUCH INFORMATION IS DIRECTED SOLELY TO PROFESSIONALS WHO HAVE THE APPROPRIATE DEGREE OF EXPERIENCE TO UNDERSTAND AND INTERPRET ITS CONTENTS, AND ANY AND ALL USE OF OR RELIANCE UPON THIS INFORMATION IS AT THE USER'S OWN DISCRETION AND AT ITS OWN RISK. ALL WARRANTIES, EXPRESS OR IMPLIED, ARE DISCLAIMED, INCLUDING WITHOUT LIMITATION, ANY AND ALL WARRANTIES CONCERNING THE ACCURACY OF THE INFORMATION, ITS FITNESS OR APPROPRIATENESS FOR A PARTICULAR PURPOSE OR USE, ITS MERCHANTABILITY AND ITS NON-INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS. ACTA (TOGETHER WITH ITS MEMBERS, AFFILIATES AND SPONSORS), EXPRESSLY DISCLAIMS ANY AND ALL RESPONSIBILITIES FOR THE ACCURACY OF THE INFORMATION AND MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE INFORMATION'S COMPLIANCE WITH ANY APPLICABLE STATUTE, RULE OR REGULATION. ACTA, AND ITS MEMBERS, AFFILIATES AND SPONSORS, EXPRESSLY DISCLAIM, AND SHALL NOT BE LIABLE, FOR, ANY AND ALL DAMAGES, DIRECT OR INDIRECT, ARISING FROM OR RELATING TO ANY USE OF THE INFORMATION CONTAINED HEREIN, INCLUDING WITHOUT LIMITATION ANY AND ALL INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, LITIGATION, OR THE LIKE), WHETHER BASED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EXCEPT FOR SUCH DAMAGES AS MAY RESULT DIRECTLY FROM ACTA'S INTENTIONALLY UNLAWFUL OR GROSSLY NEGLIGENT ACTS. THE FOREGOING NEGATION OF DAMAGES IS A FUNDAMENTAL ELEMENT OF THE USE OF THE INFORMATION AND DATA CONTAINED HEREIN, AND THIS INFORMATION WOULD NOT BE PUBLISHED BY ACTA WITHOUT SUCH LIMITATIONS.