

Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated July 9, 1910, which withdrew public lands for the Bureau of Land Management's Coal Reserve Montana No. 1, is hereby revoked insofar as it affects the following described lands:

**Principal Meridian, Montana**

(Exchange MTM 82115—Rypkema Unit):

- T. 6 S., R. 49 E.,  
 Sec. 25, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
 Sec. 26, W $\frac{1}{2}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$ ;  
 Sec. 35, S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , and S $\frac{1}{2}$ .  
 T. 7 S., R. 49 E.,  
 Sec. 1, lot 1;  
 Sec. 4, lots 1 to 4, inclusive, SW $\frac{1}{4}$ NW $\frac{1}{4}$   
 and NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 5, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , and  
 N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 12, lots 1, 2, and 3.  
 T. 6 S., R. 50 E.,  
 Sec. 28, that portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$  lying  
 north and west of the river;  
 Sec. 29, NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 30, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$ , and  
 W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 31, lots 1 to 4, inclusive, NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 and E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 32, that portion of the E $\frac{1}{2}$ NE $\frac{1}{4}$  lying  
 north and west of the river.  
 T. 7 S., R. 50 E.,  
 Sec. 6, lots 5 and 11.

(Exchange MTM 81618—Home Unit):

- T. 6 S., R. 49 E.,  
 Sec. 34, NW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
 T. 7 S., R. 49 E.,  
 Sec. 3, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 4, N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 5, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , and  
 S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 20, NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 21, lot 3;  
 Sec. 29, lot 13;  
 Sec. 30, lots 2, 3, and 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and  
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 31, lots 1, 2, and 3;  
 Sec. 32, lot 2.  
 T. 8 S., R. 49 E.,  
 Sec. 6, lot 6;  
 Sec. 7, lots 2 and 4.

The areas described aggregate 3,562.91 acres in Powder River County.

2. At 9 a.m. on September 14, 1995, the lands described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on September 14, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on September 14, 1995, the lands will be opened to location and entry for non-metalliferous mining under the United States mining laws, subject to valid existing rights, the

provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempting adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 4, 1995.

**Bob Armstrong,**

*Assistant Secretary of the Interior.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 64 and 68**

[CC Docket No. 92-90; FCC 95-310]

**Telephone Consumer Protection Act of 1991**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** On July 26, 1995, the Commission adopted a Memorandum Opinion and Order (MO&O) finalizing its rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). In the MO&O, the Commission resolves a number of issues raised regarding the Report and Order. The Commission's actions clarify certain critical aspects of the regulations implementing TCPA and ensures that the costs of privacy protection are not borne by the residential subscriber. The MO&O balances the need to protect consumers' privacy with the imperative that telemarketing practices not be unreasonably hindered.

**EFFECTIVE DATE:** September 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Scott A. Shefferman, Attorney, Domestic Facilities Division, Common Carrier Bureau, (202) 418-2332.

**SUPPLEMENTARY INFORMATION:** This summarizes the Commission's Memorandum Opinion and Order in the matter of Rules and Regulations

Implementing the Telephone Consumer Protection Act of 1991, (CC Docket 92-90, adopted July 26, 1995, and released August 7, 1995). This file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., NW., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., N.W., Suite 140, Washington, DC 20037, phone (202) 857-3800.

**Analysis of Proceeding**

On September 17, 1992, the Commission adopted a Report and Order (57 FR 48333, October 23, 1992) that established procedures governing unwanted telephone solicitations, and set forth regulations governing the use of automatic telephone dialing systems, prerecorded or artificial voice messages, and telephone facsimile machines. This MO&O considers requests for reconsideration and/or clarification of rules implemented in the Report and Order in this proceeding.

A "telephone solicitation," as defined in the Telephone Consumer Protection Act of 1991 (TCPA) and FCC rules, is a telephone call initiated for the purpose of encouraging the purchase of or investment in property, goods or services. The definition specifically excludes calls made by a tax-exempt nonprofit organization. The MO&O clarifies that telephone solicitations made either by or on behalf of tax-exempt nonprofit organizations are excepted from the telephone solicitation rules, and revises the rules accordingly. Commission rules also require each telemarketer to maintain, and retain on a permanent basis, a company-specific (*i.e.*, in house) list of telephone service subscribers that do not wish to receive further solicitation calls from that telemarketer ("do-not-call list"). The MO&O reconsiders and modifies the recordkeeping requirement for telemarketers by requiring the record of such "do-not-call" requests to be kept for a ten-year period, rather than permanently. Commission rules also prohibit prerecorded calls to residences. The MO&O clarifies that debt collection calls fall within the exceptions to the general ban against prerecorded calls to residences.

Further, the MO&O clarifies, among other things, the Commission's rules regarding telephone facsimile machines and unsolicited facsimile advertisements by stating that: (a) Telephone facsimile machines need not contain a disabling device to prevent facsimile transmission without the required identification; (b) machines

manufactured after the effective date of the rules must provide the *capability* to clearly mark identifying information (including the date and time of transmission) upon initial programming by the user; (c) facsimile modem computer boards are subject to our rules on telephone facsimile machines; and (d) the entity on whose behalf a facsimile message is transmitted is ultimately responsible for compliance with the rules banning unsolicited facsimile advertisements.

Finally, Commission rules require entities or individuals making telephone solicitations to provide identifying information to called parties, including a telephone number at which the solicitor can be reached. The TCPA prohibits charging consumers to protect their privacy, and FCC rules prohibit imposing costs on called parties. The MO&O therefore modifies the Commission's rules to ensure that telephone numbers provided in solicitations for identification purposes do not require the called party to incur more than nominal costs for making a do-not-call request.

**Ordering Clauses**

Accordingly, it is ordered, that the petitions for reconsideration and/or clarification of the rules and regulations implementing the Telephone Consumer Protection Act of 1991 are denied in part and granted in part.

It is further ordered, That effective December 13, 1995, telephone facsimile modem boards, which enable personal computers to transmit messages to or receive messages from conventional telephone facsimile machines or other computer fax boards, must be manufactured in compliance with the Commission's amended rules as set forth below.

It is further ordered, That, pursuant to authority contained in sections 1, 4(i), 4(j), 201-205, 218, and 227 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201-205, 218 and 227, parts 64 and 68 of the Commission's Rules and Regulations Are Amended as set forth below, effective September 14, 1995.

**List of Subjects**

*47 CFR Part 64*

Consumer protection, Reporting and recordkeeping requirements, Telephone.

*47 CFR Part 68*

Communications equipment, Facsimile, Telephone.

Federal Communications Commission.

**LaVera F. Marshall,**  
*Acting Secretary.*

**Rule Changes**

Chapter I of Title 47 of the Code of Federal Regulations, parts 64 and 68, are amended as follows:

**PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

1. The authority citation for part 64 continues to read as follows:

**Authority:** Section 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 226, 227, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201-4, 218, 225, 226, 227, unless otherwise noted.

2. Section 64.1200 is amended by revising paragraphs (e)(2)(iv), (e)(2)(vi) and (f)(3)(iii) to read as follows:

**§ 64.1200 Delivery restrictions.**

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(iv) *Identification of telephone solicitor.* A person or entity making a telephone solicitation must provide the called party with the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted. If a person or entity makes a solicitation using an artificial or prerecorded voice message transmitted by an autodialer, the person or entity must provide a telephone number other than that of the autodialer or prerecorded message player which placed the call. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges.

\* \* \* \* \*

(vi) *Maintenance of do-not-call lists.* A person or entity making telephone solicitations must maintain a record of a caller's request not to receive future telephone solicitations. A do not call request must be honored for 10 years from the time the request is made.

(f) \* \* \*

(3) \* \* \*

(iii) By or on behalf of a tax-exempt nonprofit organization.

\* \* \* \* \*

**PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK**

1. The authority citation for part 68 continues to read as follows:

**Authority:** Secs. 1, 4, 5, 201-5, 208, 215, 218, 226, 227, 303, 313, 314, 403, 404, 410,

602 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 155, 201-5, 208, 215, 218, 226, 227, 303, 313, 314, 403, 404, 410, 602.

2. Section 68.318 is amended by revising paragraph (c)(3) to read as follows:

**§ 68.318 Additional limitations.**

\* \* \* \* \*

(c) \* \* \*

(3) Telephone facsimile machines; identification of the sender of the message. It shall be unlawful for any person within the United States to use a computer or other electronic device to send any message via a telephone facsimile unless such message clearly contains, in a margin at the top or bottom of each transmitted page or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges. Telephone facsimile machines manufactured on and after December 20, 1992 must clearly mark such identifying information on each transmitted message. Facsimile modem boards manufactured on and after December 13, 1995 must comply with the requirements of this section.

\* \* \* \* \*

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**47 CFR Part 73**

[MM Docket No. 94-8; RM-8412; RM-8461]

**Radio Broadcasting Services; Ola and Russellville, AR**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots FM Channel 267A to Ola, Arkansas, as that community's first local aural transmission service, at the request of Yell County Broadcasting. A mutually-exclusive proposal to substitute Channel 267A for Channel 265A at Russellville, Arkansas, and concomitant modification of the license of Johnson Communications, Inc. for Station KCJC(FM) is denied. See 59 FR 7669, February 16, 1994. Coordinates used for Channel 267A at Ola, Arkansas, are 35-01-02 and 93-13-34. With this action, the proceeding is terminated.