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Title 47. Telecommunication

Chapter I. Federal Communications Commission ([Refs & Annos](#))

Subchapter B. Common Carrier Services

▣ [Part 64](#). Miscellaneous Rules Relating to Common Carriers ([Refs & Annos](#))▣ [Subpart G](#). Furnishing of Enhanced Services and Customer-Premises Equipment by Bell Operating Companies; Telephone Operator Services➔ **§ 64.702 Furnishing of enhanced services and customer-premises equipment.**

(a) For the purpose of this subpart, the term enhanced service shall refer to services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. Enhanced services are not regulated under title II of the Act.

(b) Bell Operating Companies common carriers subject, in whole or in part, to the Communications Act may directly provide enhanced services and customer-premises equipment; provided, however, that the Commission may prohibit any such common carrier from engaging directly or indirectly in furnishing enhanced services or customer-premises equipment to others except as provided for in paragraph (c) of this section, or as otherwise authorized by the Commission.

(c) A Bell Operating Company common carrier pro-

hibited by the Commission pursuant to paragraph (b) of this section from engaging in the furnishing of enhanced services or customer-premises equipment may, subject to other provisions of law, have a controlling or lesser interest in, or be under common control with, a separate corporate entity that furnishes enhanced services or customer-premises equipment to others provided the following conditions are met:

(1) Each such separate corporation shall obtain all transmission facilities necessary for the provision of enhanced services pursuant to tariff, and may not own any network or local distribution transmission facilities or equipment.

(2) Each such separate corporation shall operate independently in the furnishing of enhanced services and customer-premises equipment. It shall maintain its own books of account, have separate officers, utilize separate operating, marketing, installation, and maintenance personnel, and utilize separate computer facilities in the provision of enhanced services.

(3) Each such separate corporation which provides customer-premises equipment or enhanced services shall deal with any affiliated manufacturing entity only on an arm's length basis.

(4) Any research or development performed on a joint or separate basis for the subsidiary must be done on a compensatory basis. Except for generic software within equipment, manufactured by an affiliate, that is sold "off the shelf" to any interested purchaser, the separate corporation must develop its own software, or contract with non-affiliated vendors.

(5) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or anything of value, shall be reduced to writing. A copy of any contract, agreement, or other arrangement entered into between such entities shall be filed with the Commission within 30 days after the contract, agreement, or other arrangement is made. This provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

(d) A carrier subject to the proscription set forth in paragraph (c) of this section:

(1) Shall not engage in the sale or promotion of enhanced services or customer-premises equipment, on behalf of the separate corporation, or sell, lease or otherwise make available to the separate corporation any capacity or computer system component on its computer system or systems which are used in any way for the provision of its common carrier communications services. (This does not apply to communications services offered the separate subsidiary pursuant to tariff);

(2) Shall disclose to the public all information relating to network design and technical standards and information affecting changes to the telecommunications network which would affect either intercarrier interconnection or the manner in which customer-premises equipment is attached to the interstate network prior to implementation and with reasonable advance notification. Such information shall be disclosed in compliance with the procedures set forth in [47 CFR 51.325](#) through [51.335](#).

(3) [Reserved]

(4) Must obtain Commission approval as to the manner in which the separate corporation is to be capitalized, prior to obtaining any interest in the separate corporation or transferring any assets, and must obtain Commission approval of any modification to a Commission approved capitalization plan.

(e) Except as otherwise ordered by the Commission, the carrier provision of customer premises equipment used in conjunction with the interstate telecommunications network may be offered in combination with the provision of common carrier communications services, except that the customer premises equipment shall not be offered on a tariffed basis.

[[45 FR 31364](#), May 13, 1980, as amended at [46 FR 6008](#), Jan. 21, 1981; [63 FR 20338](#), April 24, 1998; [64 FR 14148](#), March 24, 1999; [66 FR 19402](#), April 16, 2001]

SOURCE: [56 FR 18523](#), April 23, 1991; [56 FR 25372](#), June 4, 1991; [56 FR 36731](#), Aug. 1, 1991; [57 FR 4740](#), Feb. 7, 1992; [57 FR 21040](#), May 18, 1992; [57 FR 48335](#), Oct. 23, 1992; [57 FR 54331](#), Nov. 18, 1992; [58 FR 44773](#), Aug. 25, 1993; [61 FR 24903](#), May 17, 1996; [61 FR 50246](#), Sept. 25, 1996; [61 FR 52323](#), Oct. 7, 1996; [61 FR 59366](#), Nov. 22, 1996; [62 FR 39779](#), July 24, 1997; [62 FR 45588](#), Aug. 28, 1997; [62 FR 47237](#), Sept. 8, 1997; [62 FR 64758](#), Dec. 9, 1997; [63 FR 20338](#), April 24, 1998; [63 FR 43041](#), Aug. 11, 1998; [64 FR 51469](#), Sept. 23, 1999; [64 FR 51718](#), Sept. 24, 1999; [65 FR 38435](#), June 21, 2000; [65 FR 48396](#), Aug. 8, 2000; [65 FR 54804](#), Sept. 11, 2000; [67 FR 9616](#), March 4, 2002; [67 FR 22007](#), May 2, 2002; [68 FR 6355](#), Feb. 7, 2003; [69 FR 62816](#), Oct. 28, 2004; [76 FR 24400](#), May 2, 2011; [76 FR 26647](#), May 9, 2011; [76 FR 43205](#), July 20, 2011; [76 FR 65969](#), Oct. 25, 2011; [76 FR 67073](#), Oct. 31, 2011; [76 FR 73882](#), Nov. 28, 2011; [77 FR 30919](#), May 24, 2012; [77 FR 34246](#), June 11, 2012, unless otherwise noted.

AUTHORITY: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub.L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, and 620 unless otherwise noted.

47 C. F. R. § 64.702, 47 CFR § 64.702

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