

services shall be found to be in compliance with section 1005 of this title, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, or by the Commission under subsection (b), to meet the requirements of section 1002 of this title.

(3) Absence of standards

The absence of technical requirements or standards for implementing the assistance capability requirements of section 1002 of this title shall not—

(A) preclude a telecommunications carrier, manufacturer, or telecommunications support services provider from deploying a technology or service; or

(B) relieve a carrier, manufacturer, or telecommunications support services provider of the obligations imposed by section 1002 or 1005 of this title, as applicable.

(b) Commission authority

If industry associations or standard-setting organizations fail to issue technical requirements or standards or if a Government¹ agency or any other person believes that such requirements or standards are deficient, the agency or person may petition the Commission to establish, by rule, technical requirements or standards that—

(1) meet the assistance capability requirements of section 1002 of this title by cost-effective methods;

(2) protect the privacy and security of communications not authorized to be intercepted;

(3) minimize the cost of such compliance on residential ratepayers;

(4) serve the policy of the United States to encourage the provision of new technologies and services to the public; and

(5) provide a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under section 1002 of this title during any transition period.

(c) Extension of compliance date for equipment, facilities, and services

(1) Petition

A telecommunications carrier proposing to install or deploy, or having installed or deployed, any equipment, facility, or service prior to the effective date of section 1002 of this title may petition the Commission for 1 or more extensions of the deadline for complying with the assistance capability requirements under section 1002 of this title.

(2) Grounds for extension

The Commission may, after consultation with the Attorney General, grant an extension under this subsection, if the Commission determines that compliance with the assistance capability requirements under section 1002 of this title is not reasonably achievable through application of technology available within the compliance period.

(3) Length of extension

An extension under this subsection shall extend for no longer than the earlier of—

(A) the date determined by the Commission as necessary for the carrier to comply with the assistance capability requirements under section 1002 of this title; or

(B) the date that is 2 years after the date on which the extension is granted.

(4) Applicability of extension

An extension under this subsection shall apply to only that part of the carrier's business on which the new equipment, facility, or service is used.

(Pub. L. 103-414, title I, §107, Oct. 25, 1994, 108 Stat. 4284.)

REFERENCES IN TEXT

The effective date of section 1002 of this title, referred to in subsec. (c)(1), is the date that is 4 years after Oct. 25, 1994, see section 111(b) of Pub. L. 103-414, set out as an Effective Date note under section 1001 of this title.

§ 1007. Enforcement orders

(a) Grounds for issuance

A court shall issue an order enforcing this subchapter under section 2522 of title 18 only if the court finds that—

(1) alternative technologies or capabilities or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications or access to call-identifying information; and

(2) compliance with the requirements of this subchapter is reasonably achievable through the application of available technology to the equipment, facility, or service at issue or would have been reasonably achievable if timely action had been taken.

(b) Time for compliance

Upon issuing an order enforcing this subchapter, the court shall specify a reasonable time and conditions for complying with its order, considering the good faith efforts to comply in a timely manner, any effect on the carrier's, manufacturer's, or service provider's ability to continue to do business, the degree of culpability or delay in undertaking efforts to comply, and such other matters as justice may require.

(c) Limitations

An order enforcing this subchapter may not—

(1) require a telecommunications carrier to meet the Government's¹ demand for interception of communications and acquisition of call-identifying information to any extent in excess of the capacity for which the Attorney General has agreed to reimburse such carrier;

(2) require any telecommunications carrier to comply with assistance capability requirement² of section 1002 of this title if the Commission has determined (pursuant to section 1008(b)(1) of this title) that compliance is not

¹ So in original. Probably should not be capitalized.

¹ So in original. Probably should not be capitalized.

² So in original. Probably should be "requirements".

reasonably achievable, unless the Attorney General has agreed (pursuant to section 1008(b)(2) of this title) to pay the costs described in section 1008(b)(2)(A) of this title; or

(3) require a telecommunications carrier to modify, for the purpose of complying with the assistance capability requirements of section 1002 of this title, any equipment, facility, or service deployed on or before January 1, 1995, unless—

(A) the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, facility, or service into compliance with those requirements; or

(B) the equipment, facility, or service has been replaced or significantly upgraded or otherwise undergoes major modification.

(Pub. L. 103-414, title I, §108, Oct. 25, 1994, 108 Stat. 4285.)

§ 1008. Payment of costs of telecommunications carriers to comply with capability requirements

(a) Equipment, facilities, and services deployed on or before January 1, 1995

The Attorney General may, subject to the availability of appropriations, agree to pay telecommunications carriers for all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 1002 of this title.

(b) Equipment, facilities, and services deployed after January 1, 1995

(1) Determinations of reasonably achievable

The Commission, on petition from a telecommunications carrier or any other interested person, and after notice to the Attorney General, shall determine whether compliance with the assistance capability requirements of section 1002 of this title is reasonably achievable with respect to any equipment, facility, or service installed or deployed after January 1, 1995. The Commission shall make such determination within 1 year after the date such petition is filed. In making such determination, the Commission shall determine whether compliance would impose significant difficulty or expense on the carrier or on the users of the carrier's systems and shall consider the following factors:

(A) The effect on public safety and national security.

(B) The effect on rates for basic residential telephone service.

(C) The need to protect the privacy and security of communications not authorized to be intercepted.

(D) The need to achieve the capability assistance requirements of section 1002 of this title by cost-effective methods.

(E) The effect on the nature and cost of the equipment, facility, or service at issue.

(F) The effect on the operation of the equipment, facility, or service at issue.

(G) The policy of the United States to encourage the provision of new technologies and services to the public.

(H) The financial resources of the telecommunications carrier.

(I) The effect on competition in the provision of telecommunications services.

(J) The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995.

(K) Such other factors as the Commission determines are appropriate.

(2) Compensation

If compliance with the assistance capability requirements of section 1002 of this title is not reasonably achievable with respect to equipment, facilities, or services deployed after January 1, 1995—

(A) the Attorney General, on application of a telecommunications carrier, may agree, subject to the availability of appropriations, to pay the telecommunications carrier for the additional reasonable costs of making compliance with such assistance capability requirements reasonably achievable; and

(B) if the Attorney General does not agree to pay such costs, the telecommunications carrier shall be deemed to be in compliance with such capability requirements.

(c) Allocation of funds for payment

The Attorney General shall allocate funds appropriated to carry out this subchapter in accordance with law enforcement priorities determined by the Attorney General.

(d) Failure to make payment with respect to equipment, facilities, and services deployed on or before January 1, 1995

If a carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e), and the Attorney General has not agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring any equipment, facility, or service deployed on or before January 1, 1995, into compliance with the assistance capability requirements of section 1002 of this title, such equipment, facility, or service shall be considered to be in compliance with the assistance capability requirements of section 1002 of this title until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modification.

(e) Cost control regulations

(1) In general

The Attorney General shall, after notice and comment, establish regulations necessary to effectuate timely and cost-efficient payment to telecommunications carriers under this subchapter, under chapters 119 and 121 of title 18, and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(2) Contents of regulations

The Attorney General, after consultation with the Commission, shall prescribe regulations for purposes of determining reasonable costs under this subchapter. Such regulations shall seek to minimize the cost to the Federal Government and shall—