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**ORIGINAL**

June 5, 1992

Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street NW  
Washington, D.C. 20554

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**JUN - 5 1992**

Federal Communications Commission  
Office of the Secretary

Re: The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC  
Docket No. 92-105.

Dear Ms. Searcy,

Enclosed herewith for filing are the original and nine (9) copies of MCI Telecommunications Corporation's Comments regarding the above captioned proceeding.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Comments furnished for such purpose and remit same to the bearer.

Yours truly,

Carol Schultz  
Its Attorney

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUN - 5 1992

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
The Use Of N11 Codes and Other )  
Abbreviated Dialing Arrangements )

CC Docket No. 92-105

COMMENTS

MCI Telecommunications Corporation (MCI) hereby submits its views on the Commission's Notice of Proposed Rulemaking (NPRM) in the above captioned docket. For the reasons set forth herein, MCI's recommendations should be adopted by the Commission.

MCI agrees with the Commission that there is no legal or regulatory impediment to the reasonable, nondiscriminatory assignment of dialing arrangements using N11 codes. However, to assure that the value of N11 numbers is retained, the Commission should require that national applications be given priority over regional or local applications. To ensure equity in allocations of N11 numbers between proposed national uses, the far preferable and widely accepted methodology of "first-come, first-served" should be prescribed as the only further allocation method. Allowing local exchange carriers (LECs) to assign N11 codes as they see fit would result in confusion and uncertainty, impose undue burdens on providers seeking to offer uniform services, and overall, would not serve the public interest.

Additionally, any decision to withhold the N11 codes from availability for allocation must be made by the Commission alone. To avoid the potential for partiality, the North American Numbering

Plan Administrator (NANPA), owned by Bellcore, which itself is wholly owned by the Regional Bell Operating Companies (RBOCs), should not be allowed to make these determinations. Thus, MCI respectfully requests that the Commission amend its rules as outlined in Appendix A, attached.

I. **N11 CODES SHOULD BE ALLOCATED WITH PRIORITY TO NATIONAL APPLICATIONS ON A "FIRST COME, FIRST SERVED" BASIS**

The Commission has appropriately recognized that it has plenary jurisdiction over numbering plan issues.<sup>1</sup> To date the Commission has not elected to prescribe any single methodology for assigning numbers for three-digit dialing. A review of applicable legal precedent confirms that, absent Commission action, the general requirement of the Communications Act (i.e., that carriers must provide service upon reasonable request) governs the allocation of such resources.<sup>2</sup> Thus, the Commission appropriately determined that "there appears to be no regulatory or legal impediment prohibiting [LECs] from currently assigning N11 codes in

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<sup>1</sup>NPRM at para. 8.

<sup>2</sup>In general, the applicable case law supports any allocation methodology that is reasonable and nondiscriminatory within the meaning of Sections 201(b) and 202(a) of the Communications Act. See, Metrock Corporation, 73 FCC 2d 802 (1979) ("first-come, first-served" method of allocating MDS service by a carrier not found unreasonable); MCI Telecommunications Corporation, 81 FCC 2d 568 (1980) (tariff provision limiting the number of authorization codes available to each subscriber not found unreasonable), Spanish Network v. RCA American Communications, Inc., 78 FCC 2d 1451 (1980) ("first-come, first-served"); RCA American Communications, Inc., 79 FCC 2d 331 (1980) (lottery). The latter two cases involved allocation of scarce satellite transponder capacity which is somewhat analogous to the allocation of numbers that are an integral part of the provision of service.

a reasonable, nondiscriminatory manner, i.e., such as the use of first-come, first-serve procedures."<sup>3</sup>

However, this is one instance in which the public interest would best be served if the Commission were to limit the ability of the LECs to assign N11 codes using any method they choose. Three digit dialing derives much of its value from ubiquitous use. For example, the use of 911 is effective in part because people have learned that it is used for emergency service in virtually every part of the country. The use of 411 for directory assistance is also pervasive. The ability to obtain the same number for use in many regions may be one of the most valuable aspects of three digit dialing. Thus, with respect to N11 codes, the public interest would best be served if the Commission were to adopt a requirement that nationally ubiquitous uses be given priority over regional or purely local applications.

Prioritizing national applications may not limit the number of applicants for N11 codes sufficiently to prevent the demand for N11 codes from exceeding the supply. Thus, allocation procedures among applicants proposing these national applications for N11 codes may be required. Rather than leave these to the LECs' discretion, the Commission should prescribe "first-come, first-served," taking into account requests predating the adoption of this order, as the exclusive further allocation procedure for N11 codes. A consistent method would simplify the process and reduce confusion. MCI

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<sup>3</sup>See, Letter from Robert L. Pettit, FCC General Counsel, to David J. Markey, Vice President, BellSouth, dated March 6, 1992.

recommends that the "first-come, first-served" method be chosen as the simplest and best method. It is easy to administer and has been used for many services in many contexts over the years.<sup>4</sup> It has also continuously received approval as a fair, nondiscriminatory method of allocation.<sup>5</sup> Additionally, it would allow customers to more easily determine at any given time whether or not particular numbers are available to them, and to apply for the same number in different locations for a uniform service application.

On the other hand, allowing the LECs to allocate numbers using a lottery or other allocation methods could significantly burden or even preclude the use of N11 codes in a consistent fashion.<sup>6</sup> For the reasons discussed herein, MCI respectfully requests that the

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<sup>4</sup>It is a concern that the LECs are responsible for allocating codes to themselves as well as their competitors. Procedures may need to be developed to assure that the LECs treat competitors fairly under the "first-come, first-served" methodology. Currently the LECs have virtually exclusive use of N11 dialing arrangements, reserved indirectly through Bellcore policy, and have allocated none to other commercial interests.

<sup>5</sup>See, e.g., Spanish International Network v. RCA American Communications, Inc., 78 FCC 2d 1451 (1980); Metrock Corporation, 73 FCC 2d 802 (1979).

<sup>6</sup>For example, a customer may want to use the number 211 for a particular information service. However, if some carriers allocate 211 using "first-come, first-served," while others choose the lottery system or auction, it is unlikely that any customer will be able to obtain the use of 211 in any substantial portion of the country. Multiple allocation methods also increase the administrative burden and business risk in applying for codes in multiple locations.

Under the lottery system, even if used by all carriers, it would be extremely unlikely that any one customer would by chance be able to obtain widespread use of an N11 number. Thus, the lottery system would be inferior to "first-come, first-serve" for allowing ubiquitous uses.

Commission prescribe "first-come, first served" as the only appropriate further allocation method for N11 numbers between those applicants that have proposed nationally uniform uses.

**II. THE NANPA SHOULD NOT BE GRANTED OVERLY BROAD AUTHORITY TO RESTRICT ASSIGNMENT OF AVAILABLE DIALING ARRANGEMENTS**

The Commission contemplates that a separate proceeding will be initiated in connection with NARUC's Petition for a Notice of Inquiry<sup>7</sup> to address broader numbering issues.<sup>8</sup> One of the primary concerns of parties in that proceeding is the role of Bellcore in numbering decisions. In fact, much evidence surfaced that Bellcore's administration of the NANP is potentially partial to its owners. Examples were cited of Bellcore's, the NANPA's or RBOCs' use of ad hoc or unexplained methods of allocating numbering resources, and of actual or potential abuse of power in favor of the RBOCs.<sup>9</sup>

Yet, the Commission's proposed rules in the current proceeding would allow Bellcore, through the NANPA, at its discretion, to overrule or subvert the assignment of N11 codes. This is completely unacceptable given the reasonable concerns about the

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<sup>7</sup>National Association of Regulatory Utility Commissioners' Petition for Notice of Inquiry Addressing Administration of the North American Numbering Plan (DA 91-1307), filed September 26, 1991. (NARUC Proceeding).

<sup>8</sup>NPRM at fn. 5.

<sup>9</sup>See, e.g., Allnet Communications Services, Inc. Comments at 1-2, McCaw Cellular Communications, Inc. Comments at 4-12, MCI Communications Corporation Comments at 5-7 and Telocator Comments at Sections I and II.

inherent bias of Bellcore in favor of its owners. The Commission, rather than Bellcore, should consider whether current reservations of numbers should be maintained and whether any future limitations should be allowed. It is particularly critical to note that all uses of N11 codes, excluding 911, have been limited to LECs. The assignment of such codes was established by the NANPA.<sup>10</sup> In light of the evidence offered in the NARUC proceeding of potential Bellcore partiality and the contemplated broader numbering proceeding, it would be inappropriate for the Commission at this time to promulgate rules which strengthen the delegation of such broad authority to Bellcore.<sup>11</sup>

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<sup>10</sup>The Commission has already determined in its proposed rules (NPRM Appendix A), and could decide in the current proceeding, that 911 and 411 would be exempt from allocation to other services. Few would suggest that the continued current use of 911, in particular, is not in the public interest, but this should be the Commission's, not Bellcore's, decision.

<sup>11</sup>It should also be a Commission decision, rather than a Bellcore decision whether N11 codes should be returned if they are needed in the future for NPA expansion. This issue is being considered with respect to Bellcore's Long-Term Numbering Plan and should be addressed in the contemplated broader numbering proceeding, along with the appropriate timing of the implementation of interchangeable NPAs and their subsequent use.

**CONCLUSION**

For the reasons discussed herein, and to assure consistent and fair allocation of N11 codes, MCI respectfully requests that the Commission adopt the rules proposed in Appendix A to these Comments.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

  
\_\_\_\_\_  
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Its Attorney

June 5, 1992

**APPENDIX A  
PROPOSED AMENDMENTS TO THE CODE  
OF FEDERAL REGULATIONS**

Title 47 of the CFR, Part 64, is proposed to be amended as follows:

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

1. The authority citation for Part 64 is amended to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201-4, 218, 225, 226, 227, 48 Stat. 1070-71, as amended, 1077; 47 U.S.C. 201-4, 218, 225, 226, 227 unless otherwise noted.

2. New Subpart N is added to read as follows:

Subpart N--Abbreviated Dialing

Section 64.1401 Codes Available

Local Exchange Carriers shall make dialing arrangements using service codes 211, 311, 411, 511, 611, 711, 811, and 911 available, giving priority to national or uniform applications on a "first come, first served" basis, taking into account written requests predating the adoption of this rule, so long as these codes have not been assigned or reserved by order of the Federal Communications Commission for other uses.

Section 64.1402 Conditions

Any of the service codes listed in subsections 64.1401 may be assigned or reserved by the Administrators of the North American Numbering Plan only upon the approval of the Federal Communications Commission.

**CERTIFICATE OF SERVICE**

I, Toni D. Davis, do hereby certify that on this 5th day of June 1992, copies of the foregoing "Comments" in Docket No. 92-105 were hand delivered to:

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