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

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

CC Docket, Federal Communications Commission
Office of the Secretary

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FILE

REPLY COMMENTS OF
MOBILE TELECOMMUNICATION TECHNOLOGIES CORPORATION

Mobile Telecommunication Technologies Corporation ("Mtel"), by its attorneys, respectfully submits its reply comments in the above-captioned proceeding. Mtel believes the record supports assignment of N11 codes as abbreviated dialing arrangements on a non-discriminatory basis.

I. INTRODUCTION

In its opening comments, Mtel explained that using N11 codes as abbreviated dialing arrangements could yield substantial public interest benefits. Specifically, Mtel noted that N11 access codes could create powerful marketing tools, increase subscribership to innovative offerings, and permit faster, more efficient access. Mtel urged the Commission to develop non-discriminatory guidelines for assigning and using these codes, and suggested that such guidelines incorporate the following principles:

- Codes should not be restricted to enhanced service providers.
- Codes should be assigned in a manner that accommodates nationwide services, and any codes not assigned to nationwide services should be allocated

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to regional or local uses on a nationally consistent basis.

- Codes should be assigned to entities that can make immediate and substantial use of them.
- Codes should not be transferrable except in conjunction with mergers or acquisitions involving the entity to which the code has been assigned.
- Codes should be subject to recall only upon clear demonstration of need and after one year's notice.
- The 611 and 811 codes should be made available for nationwide use.

In these reply comments, Mtel will demonstrate that, notwithstanding the opposition of some local exchange carriers ("LECs"), the Commission should adopt its proposal to make N11 codes available for use as abbreviated dialing arrangements. Accordingly, as detailed in Mtel's opening comments and further supported herein, the Commission should develop assignment guidelines that expedite the allocation of N11 codes, accommodate nationwide services, and extend the benefits of these new access arrangements as broadly as possible.

II. THE COMMISSION SHOULD ADOPT RULES THAT ACCOMMODATE THE ASSIGNMENT OF N11 CODES TO NATIONWIDE SERVICES AS ABBREVIATED DIALING ARRANGEMENTS.

The record reflects widespread support from non-LECs for using N11 codes as abbreviated access arrangements.¹ The

¹ See, e.g., Infocom at 1; Datatrex at 1-2; Newspaper Association of America at 2; Mobile Connections, Inc. at 1-2; Alternative Weekly Newspapers at 4; MCI at 1; Lo/Ad Communications at 1-2.

local exchange carriers, however -- who are the sole current users of N11 codes -- generally opposed making them available to non-LECs. The LECs contended that N11 codes are widely used by local telephone companies, that employing these codes as abbreviated dialing arrangements would engender customer confusion, and that N11 codes should not be assigned because they are scarce resources that should be reserved for "public service" applications. Mtel will refute each of these arguments below.

A. The LECs Do Not "Own" N11 Codes.

Several LECs oppose assignment of N11 codes because their operating companies already use most or all of these resources for various purposes.² Bellcore similarly notes that all N11 codes are used for local applications across the nation, and goes so far as to argue that the LECs have a property right in these codes.³ Prior use of these codes by the LECs does not, however, prevent their re-assignment as abbreviated dialing arrangements.

As an initial matter, the LECs cannot preclude the assignment of N11 codes as abbreviated dialing arrangements simply because they find it convenient to use these numbers for their own services. The appendix to Bellcore's comments

² See, e.g., Anchorage Telephone Utility at 1-2; NYNEX at 6 n.7.

³ Bellcore at 5, 9-10.

shows that these codes most often are used for various kinds of plant tests, for which the LECs already have reserved entire NXXs. In addition, many LECs are using N11 codes for competitive services such as voice mail access and time and weather information. The carriers should not be permitted to monopolize these valuable resources by virtue of their ability, as the entities currently responsible for number assignment, to help themselves first.

As Mtel explained in its opening comments, all existing LEC uses of N11 codes, except 411 and 911, should be discontinued so that these numbers may be used as abbreviated dialing arrangements. The use of these codes for private LEC purposes is inefficient and deprives competitors and users of the benefits of three-digit dialing.

B. The Use of N11 Codes for Nationwide Services Would Not Engender Customer Confusion.

Several parties assert that using N11 codes for local services would create widespread customer confusion. For example, AT&T and the Ad Hoc Telecommunications Users Committee both noted that local assignment of N11 codes would create confusion when the same codes are used for different purposes in different locations, or to access different

vendors of similar services.⁵ In addition, several LECs pointed out that in locations with extended area service, assignment of N11 codes for local uses could lead to conflicting assignments.⁶

Mtel agrees with these parties that local allocations of N11 codes would cause confusion. It disagrees, however, that this is a reason for withholding use of these codes as abbreviated dialing arrangements. Rather, the customer confusion caused by local assignment confirms the wisdom of utilizing these codes only for nationwide or nationally consistent uses, as Mtel recommended in its opening comments.

Assignment for nationwide or nationally consistent uses would prevent the problem of customers expecting a different type of service than they actually obtain. It would also eliminate the possibility of conflicting assignments in locations with extended area service, since allocation of numbers would be at a higher geographic level. Finally, allocation to proven nationwide or nationally consistent uses likely would extend the benefits of abbreviated dialing to more users, compared to local assignments.⁷

⁵ AT&T at 4 n.*; Ad Hoc Telecommunications Users Committee at 2.

⁶ See, e.g., NYNEX at 6; U S West at 22-23; USTA at 23-24.

⁷ For further discussion of the benefits of allocating N11 codes to nationwide services, see MCI at 2-5; Sprint at 4-7.

C. The Scarcity of N11 Codes Is Not an Obstacle to Their Assignment.

Several LECs argue that because N11 codes are scarce resources, they should be reserved for "public service applications," rather than competitive offerings.⁸ As an alternative, they recommend other dialing arrangements, such as 555-XXXX or N11-XXXX.⁹

Mtel strongly supports examining all forms of dialing arrangements. At the same time, however, it submits that the scarcity of N11 codes is not a legitimate reason for withholding their availability for commercial purposes. As Mtel explained in its opening comments, and as the record confirms, there is little risk that N11 codes will need to be recalled for use as NPAs.¹⁰ In addition, the record makes clear that various abbreviated dialing arrangements, such as NXX* and *XXX, are feasible with relatively minor modifications of switch software.¹¹ Consequently, any competitive advantage gained by entities holding N11 codes would be short-lived.

Moreover, the scarcity of N11 codes simply confirms that they should be assigned in a manner that benefits the

⁸ See, e.g., Pacific Telesis at 3-4; GTE at 2-4; NYNEX at 3-8.

⁹ See, e.g., Pacific Telesis at 18-20; Southwestern Bell at 12; U S West at 13-15.

¹⁰ Mtel at 7-8.

¹¹ ITAA at 8; ~~feited~~ Ameritech at 12.

greatest number of potential users. As Mtel noted above, allocation to nationwide or nationally consistent uses would be most likely to satisfy this criterion. In addition, the codes should be assigned for services with a proven and substantial subscriber base, to avoid being wasted on speculative offerings with limited appeal.

It is also important to note that, measured against the "public service" standard offered by several LECs, the only current use of N11 codes that would withstand scrutiny is 911. Other existing uses of N11 codes are simply ways to facilitate or expand utilization of the LECs' networks. As such, they are clearly commercial applications.

For example, the LECs all realize millions of dollars in revenues from 411, both directly for calls to directory assistance, and indirectly for follow-on calls to the party whose number was retrieved. Moreover, in most cases, the only numbers contained in the LECs' directory assistance data bases are addresses on their own networks. Addresses corresponding to cellular telephones or pagers are not included, substantially eroding the argument that the directory assistance data bases are public goods.

Obviously, any commercial concern would like to offer its customers a three-digit number to call for repairs, for access to its business office, or for a listing of its products and services. Only the telephone companies, however, currently may do so. The fact that it is a LEC,

rather than an unregulated entity, offering these access arrangements does not automatically transform them into public service applications. Rather, if the Commission adopts the suggestion that N11 codes be reserved for public service uses, it should be prepared to scrutinize all existing LEC applications other than 911 in order to determine if they pass this test.

III. THE RECORD REFLECTS CONSENSUS REGARDING OTHER MATTERS
ADDRESSED IN THE NOTICE.

Notwithstanding the dispute over whether N11 codes should be made available for abbreviated dialing, the record reflects substantial agreement regarding other major issues associated with such use of these numbering resources:

Need for Commission-established assignment guidelines.

In its opening comments, Mtel cautioned that the LECs should not be permitted to develop N11 assignment guidelines and oversee the assignment process because of their inherent conflict of interest. There is widespread agreement with this position from LECs and non-LECs alike.¹² Accordingly, the Commission should establish non-discriminatory assignment guidelines that minimize the LECs' role in allocating N11 codes.

Eligibility of non-ESPs. Mtel noted in its comments that codes should not be restricted to enhanced services

¹² See U S West at 20; Ameritech at 14-16; Sprint at 7-8; Datatrex at 2; ITAA at 1.

because "the users of many other telecommunications applications would benefit from N11 access."¹³ Virtually every party that addressed this issue concurred that N11 codes should be made available to non-ESPs as well, with most commenters noting that limiting them to ESPs would appear to be an impermissible use/user restriction.¹⁴ Consequently, the Commission should state that any entity proposing to use an N11 code for access to a nationwide or nationally consistent service with a substantial subscriber base is eligible to obtain such a code.

No ability to transfer or sell. Mtel expressed concern in its opening comments that allowing entities to transfer or sell N11 codes, other than in conjunction with a merger or acquisition involving the code-holder, would be directly contrary to the public interest. The record reveals universal agreement that N11 codes should not generally be transferrable.¹⁵ The Commission therefore should confirm that, once assigned, N11 codes may be transferred only in conjunction with the merger or acquisition of the company holding the code.

¹³ Mtel at 5.

¹⁴ See Ameritech at 7 n.*; BellSouth at 6; Southwestern Bell at 6-7; U S West at 20.

¹⁵ See Ameritech at 16; AT&T at 7; NYNEX at 11; Southwestern Bell at 11.

IV. CONCLUSION

For the foregoing reasons, and those stated in Mtel's opening comments, the Commission should make N11 codes available for use as abbreviated dialing arrangements. The Commission should develop means of assigning these codes on a non-discriminatory basis to eligible entities. In considering eligibility, the Commission should not limit the codes to enhanced service providers, and should accommodate nationwide uses with a substantial subscriber base. In addition, the Commission should adopt rules consistent with the other assignment and use principles detailed in Mtel's filings.

Respectfully submitted,

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