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

In the Matter of)
)
Administering of the North)
American Numbering Plan)

CC Docket No. 92-237

COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

The American Public Communications Council ("APCC") submits the following comments in response to the Commission's Notice of Inquiry ("Notice") in these proceedings, FCC 92-470, released October 29, 1992.

STATEMENT OF INTEREST

APCC is a council of the North American Telecommunications Association ("NATA"), and is made up of more than 200 competitive providers of non-telephone company, or independent public payphones ("IPPs") and other public communications facilities. APCC seeks to promote competitive markets and high standards of service for pay telephones and public communications. Due to the nature of the payphone business, changes in the North American Numbering Plan ("NANP") can have a major impact on IPP providers' ability to provide high quality service to the public. In addition, some numbering plan changes can affect the ability of APCC members to comply with legal obligations under federal or state law. For all these reasons, APCC and its members have a substantial interest in ensuring efficient and fair administration of the numbering plan, and in ensuring that changes in the numbering plan that affect

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payphones are not made without full consideration of the necessity for the changes and their impact on those affected.

APCC's initial comments address the specific issue raised by the Commission regarding a possible transition from 10XXX to 101XXXX access codes. We reserve the right to address other issues in the reply round in response to comments of other parties.

DISCUSSION

In ¶¶ 36-38 of the Notice, the Commission requests comment on the question of whether the existing 10XXX format for "equal access codes" should be expanded to 101XXXX in order to accommodate a supposed need for additional 10XXX access codes. The Notice states that "the industry" has agreed upon implementation of the 101XXXX format in 1995. Notice, ¶¶ 36-37.

APCC wishes to make clear that neither APCC nor -- to APCC's knowledge -- any of APCC's members have agreed to any "industry" plans to expand the 10XXX access code to four digits. For the reasons stated below, APCC strongly opposes any change that would require its members to convert, retrofit, or replace their payphones once again in order to accommodate a new and unfamiliar dialing pattern.

Currently, payphones and other equipment provided by "aggregators" (hotels, motels, hospitals, universities, and other entities that allow operator-assisted calls to be placed by "transient" users) is required by law and Commission rule to allow 10XXX dialing. Specifically, under the Telephone Operator Consumer

Services Improvement Act of 1990 ("TOCSIA"), Pub. L. No. 101-435, 104 Stat. 1986 (1990), codified at 47 U.S.C. § 226, manufacturers of independent public payphones and other equipment used by "aggregators" are required by law to include the capability to process 10XXX dialing in all equipment manufactured after April 17, 1992. 47 U.S.C. § 226(f); Policies and Rules Concerning Operator Service Providers, 6 FCC Rcd 2744 (1991). In addition, as a result of a decision by the FCC, payphone owners are specifically required to ensure that their payphones allow 10XXX dialing. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, 6 FCC Rcd 4736 (1991), recon., FCC 92-275 (released July 10, 1992) ("10XXX Reconsideration"), pets. for recon. and review pending.

Regarding possible successors to the 10XXX codes, the legislative history of TOCSIA indicates that the FCC is to:

develop and implement policies to ensure that equipment is designed to recognize future access codes approved by the FCC within a reasonable amount of time.

S. Rep. No. 439, 101st Cong., 2d Sess. 19 (1990). Thus, if APCC members were to be required by law to implement 101XXXX capabilities, the FCC must amend its rules and ensure that the industry has a reasonable time period to implement such a change. In the present Notice of Inquiry, the Commission now raises the issue of successors to 10XXX for the first time.

I. CONVERSION TO 101XXXX WOULD BE ONEROUS

NATA has conducted a survey of its manufacturer members, including the manufacturers of independent public payphones, in order to determine whether current models of customer premises equipment ("CPE") industry are capable of implementing 101XXXX access codes. Manufacturers were asked whether their equipment was capable of implementing 101XXXX codes (without going beyond routine maintenance procedures), and when they could (or did) begin producing equipment capable of implementing 101XXXX codes. Out of 16 manufacturers responding, seven indicated that the equipment they were currently producing had 101XXXX processing capability. Two indicated that some of their current models had the capability while others did not. Nine, including three payphone companies, indicated that their current equipment models could not process 101XXXX codes.

The results of NATA's survey indicate that payphone manufacturers are not yet manufacturing equipment that can process 101XXXX. Moreover, the installed base of independent public payphones at any time contains equipment of widely varying vintages. There are still some payphone models in the installed base that cannot even process 10XXXX access codes. Clearly, if the Commission were to require aggregators to universally implement a 101XXXX access code by 1995, a massive amount of equipment modification, retrofitting, and replacement would be required.

APCC members, as well as others in the industry, have incurred great expense in order to ensure that their equipment complies with

the rules adopted by the Commission requiring 10XXX dialing. This has been a difficult process, both because of the diversity of the installed equipment base and because of the toll fraud dangers associated with "equal access" dialing. See 10XXX Reconsideration, ¶¶20-21. If the Commission now decides that there must be a transition to 101XXXX, the industry's entire effort to implement 10XXX, as directed by the Commission, will have been wasted, and the conversion and retrofitting process will have to be repeated for a new dialing format.

II. IMPLEMENTATION OF 101XXXX WOULD INCONVENIENCE CONSUMERS

If 101XXXX codes were implemented, the 10XXX dialing format that the industry has worked so hard to implement would be replaced by a format that is less familiar and convenient for consumers. The main purpose of "equal access codes" is to give consumers a relatively simple method of achieving an "equal access" connection with their interexchange carrier of choice. To this end, over the last two years, through massive advertising and informational campaigns, consumers have been "trained" to dial access codes with the format 10XXX. This consumer education process will continue at least until 1995, making the 10XXX access code format more and more familiar to consumers. If, at that time, a new "equal access code" is introduced to replace 10XXX, all the benefits of this consumer education effort will be wiped out. Consumers will have to relearn a new, more complicated and less convenient access code format. It is not in the public interest to put consumers, who

already encounter a variety of confusing characteristics in the operator service market, through the additional confusion and inconvenience of learning a new and more difficult access code format.

III. 101XXXX IS NOT NEEDED

The FCC must carefully scrutinize the underlying basis for the alleged shortage of 10XXX access codes. To APCC's knowledge, the number of different 10XXX access codes actually used by consumers who exercise their rights under TOCSIA is very small. The SMDR printouts from APCC members' payphones that APCC's staff and attorneys have reviewed from time to time over the last two years indicate that the dialing of 10XXX access codes other than those used by the "big three" (10288 (AT&T), 10222 (MCI) and 10333 (Sprint)) is a very rare occurrence. APCC doubts that there are more than two dozen IXC's who actually promote the use of 10XXX access codes by their subscribers.

It is APCC's understanding that the last three digits of the 10XXX access code (the Carrier Identification Code or "CIC") are used for a number of purposes that have nothing to do with ensuring "equal access" to carriers. For example, the CIC is also used as the last three digits of Feature Group B (950-1XXX) "non-equal" access codes. In addition, many LECs require interexchange carriers and others to have CICs as a condition of providing billing and collection services. To the extent there is a perceived 10XXX shortage because CICs are used for purposes other

than dial-up equal access connections, it would appear that other alternatives, such as four-digit codes, could be used for these purposes without exhausting the supply of three-digit codes genuinely needed for equal access dialing.

It is also APCC's understanding that many carriers have two, three, or even more CICs. There does not seem to be any legitimate reason why any carrier needs more than one CIC.

Still other carriers operate on a regional or local basis. Such regional or local carriers could share their codes with other regional or local carriers.

Finally, it appears that a significant number of three-digit CICs have been assigned to non-carriers. Again, it is not clear why end users or others who are not entitled by law to "equal access" have a need for this apparently scarce resource.

Given the costs involved in converting the existing base of CPE to 101XXXX capability, and the inconvenience to end users of having to learn a new dialing format, the Commission should carefully scrutinize the basis for the alleged shortage of 10XXX codes, and should explore every alternative for relieving such a shortage if any shortage is actually found to exist.

To begin with, carriers should be limited to only one three-digit code apiece. If there continues to be a shortage after all carriers' extra codes have been reclaimed, then the Commission should take other steps to preserve the availability of three-digit codes for genuine equal access purposes. For example, local exchange carriers should accept four-digit codes for billing and

collection purposes, so that interexchange carriers who do not need equal access connections can relinquish their three-digit codes if necessary. The Commission should also consider restricting the use of three-digit codes by end users, and should consider requiring regional or local carriers to share three-digit codes.

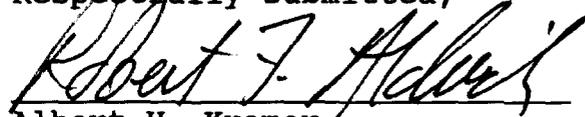
APCC does not dispute that all the current holders of 10XXX codes may be able to offer some convenience- or market-based justification for why they "need" their code(s). However, the fact remains that the only legally necessary purpose of these "equal access" codes is to make equal access connections, and the legal consequence of converting to 101XXXX presumably will be to impose onerous new legal requirements, not only on local exchange carriers, but also on payphone owners, aggregators, and their equipment suppliers. Conservation of 10XXX codes may impose some degree of inconvenience on some parties. However, failure to conserve the codes threatens the imposition of onerous legal requirements on an entire industry that has no real need to provide "equal access" capabilities for more than a few dozen carriers at the very most.

CONCLUSION

There would have to be a compelling showing as to why more than 999 equal access codes are necessary before the Commission can justify imposing new and onerous legal requirements on payphone owners and other aggregators. Given the numerous alternatives,

the Commission should find that it is not in the public interest to implement 101XXXX access codes, and should take the necessary steps to ensure that sufficient 10XXX codes are available for genuine equal access purposes.

Respectfully submitted,



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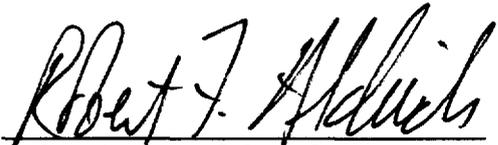
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Comments of the American Public Communications Council" was served this 28th day of December, 1992, by hand-delivering true copies thereof, to the following persons at the addresses listed below:

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