FCC MAIL ROOM
APR 4 3 05 PM '94
DISPATCHED BY

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

FCC 94-58

In the Matter of	)	
	)	
Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation	)	CC Docket No. 92-256

Report and Order

Adopted: March 8, 1994 Released: April 4, 1994

By the Commission:

Table of Contents

Topic	Paragraph No.
I. Introduction	
A. Summary	1
B. Background	2
II. Application of ONA Requirements and Nondiscrimination Safeguards to GTE	5
III. Specific ONA Requirements and Nondiscrimination Safeguards for GTE	25
A. ONA Plan	25
B. ONA Requirements	27
1. Initial ONA Offerings and Deployment Projection Reports	27
2. Annual and Semiannual ONA Reports	33
C. Nondiscrimination Safeguards	36
1. CPNI	39
2. OSS	46

3. Network Information Disclosure Rules 50

4. Nondiscrimination in Installation and Maintenance 54

IV. Implementation 60

V. Preemption 65

VI. Regulatory Flexibility Act 69

VII. Ordering Clauses 70

Appendix A

I. Introduction

A. Summary

1. On December 2, 1992, the Commission released a Notice of Proposed Rulemaking proposing to apply to GTE Corporation (GTE) the same regulatory framework of Open Network Architecture (ONA) and nondiscrimination safeguards that apply to the Bell Operating Companies (BOCs).[1] In this Order, we apply the ONA requirements and nondiscrimination safeguards to GTE. These requirements for GTE will provide enhanced service providers (ESPs) with greater access to unbundled services, thus facilitating the provision of additional information age services and greater price competition to consumers. We require that GTE file an ONA plan nine months from release of this Order, file federal and state ONA tariffs three months later,[2] and implement ONA requirements and nondiscrimination safeguards fifteen months after release of this Order.

B. Background

2. In the Computer III and ONA proceedings, we established a comprehensive regulatory framework of nonstructural safeguards, including ONA requirements and nondiscrimination safeguards, to govern the BOCs' participation in the enhanced services marketplace.[3] In

---

[1] In the Matter of Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, Notice of Proposed Rulemaking, CC Docket No. 92-256, 7 FCC Rcd 8664 (1992) (Notice).

[2] The federal tariffs are to be scheduled to become effective on three months public notice.

[3] Amendment of Section 64.702 of the Commission's Rules and Regulations, Phase I, 104 FCC 2d 958 (1986) (Phase I Order), recon., 2 FCC Rcd 3035 (1987) (Phase I Reconsideration Order), further recon., 3 FCC Rcd 1135 (1988) (Phase I Further Reconsideration Order), second further recon., 4 FCC Rcd 5927 (1989) (Phase I Second Further Reconsideration, Phase I Order and Phase I Reconsideration Order

order to provide network-based opportunities for competing ESPs, we imposed on the BOCs Comparably Efficient Interconnection (CEI) and ONA requirements as conditions for providing enhanced services on an integrated basis.

3. Our ONA regime generates significant public interest benefits in two major respects. By imposing special obligations on the BOCs to respond to ESP needs by unbundling existing basic services and providing new basic services, ONA increases opportunities for all ESPs to develop new offerings and expands their markets for services through efficient use of the regulated local exchange network. In particular, ONA ensures that ESPs and others are able to purchase only the functionalities that they need and obtain specific basic network functions necessary to provide their services.[4] Our ONA requirements and nondiscrimination safeguards also effectively guard against discrimination by the carrier in its provision of basic services to ESPs.[5] These protections facilitate use of the network in the provision of enhanced services, thereby increasing the availability of competitively provided enhanced services to consumers.

---

vacated, California v. FCC, 905 F.2d 1217 (9th Cir. 1990); Phase II, 2 FCC Rcd 3072 (1987) (Phase II Order), recon., 3 FCC Rcd 1150 (1988) (Phase II Reconsideration Order), further recon., 4 FCC Rcd 5927 (1988) (Phase II Further Reconsideration Order), Phase II Order vacated, California v. FCC, 905 F.2d 1217 (9th Cir. 1990); Computer III Remand Proceeding, 5 FCC Rcd 7719 (1990) (ONA Remand Order), recon., 7 FCC Rcd 909 (1992), pets. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993); Computer III Remand Proceeding: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, 6 FCC Rcd 7571 (1991) (BOC Safeguards Order), pets. for recon. pending, pets. for rev. pending, California v. FCC, No. 92-70083 (9th Cir. filed Feb. 14, 1992); Filing and Review of Open Network Architecture Plans, 4 FCC Rcd 1 (1988) (BOC ONA Order), recon., 5 FCC Rcd 3084 (1990) (BOC ONA Reconsideration Order), 5 FCC Rcd 3103 (1990) (BOC ONA Amendment Order), Erratum, 5 FCC Rcd 4045, pets. for review denied, California v. FCC, 4 F.3d 1505 (9th Cir. 1993), recon., 8 FCC Rcd 97 (1993) (BOC ONA Amendment Reconsideration Order), 6 FCC Rcd 7646 (1991) (BOC ONA Further Amendment Order), 8 FCC Rcd 2606 (1993), (BOC ONA Second Further Amendment Order), pet. for review denied MCI Telecommunications Corp. v. FCC, No. 92-70189, slip op. (9th Cir. Sept. 23, 1993).

[4] Under the ONA model, ESPs obtain access to various unbundled ONA services, termed Basic Service Elements (BSEs), through access links described as Basic Serving Arrangements (BSAs). Other ONA elements include Complementary Network Services (CNSs), which are unbundled basic service features that an end user may obtain from a BOC in order to receive or use an enhanced service, and Ancillary Network Services (ANSs), which are non-Title II services, such as billing and collection that may be useful to ESPs. See BOC ONA Amendment Order, 5 FCC Rcd at 3104.

[5] Phase I Order, 104 FCC 2d at 1065-66.

4. Although we initially did not require local telephone companies other than the BOCs to comply with ONA requirements and nondiscrimination safeguards, we stated that we would revisit the issue of applying these requirements to GTE once initial ONA implementation by the BOCs was completed.[6] After gaining substantial experience with the BOCs, we began this proceeding to seek comment on our proposal to apply to GTE the ONA requirements and nondiscrimination safeguards that govern the BOCs' participation in the enhanced services market.[7]

II. Application of ONA Requirements and Nondiscrimination Safeguards to GTE

5. Notice/Background. In the Notice, we tentatively concluded that GTE's merger with Contel Corporation (Contel) had significantly expanded the scope of GTE's operations and increased the benefits that GTE would bring to its customers by conforming to BOC ONA requirements. We tentatively concluded that GTE's ability to participate in the enhanced services market has increased, as well as its ability and incentive to discriminate against competitors. We also tentatively concluded that the scope and strength of GTE's operations will give GTE the ability to comply with the ONA requirements and the nondiscrimination safeguards. In addition, we concluded that the substantial experience gained by implementing ONA for the BOCs would enable us to streamline and speed the implementation of ONA for GTE, reducing the costs involved. Accordingly, we tentatively concluded that, in light of its size and resources, the benefits that could be achieved from GTE implementing ONA requirements and nondiscrimination safeguards now outweigh the fact that it is geographically dispersed.[8] We also sought comment on whether our ONA requirements should be modified to make them less onerous to reflect GTE's many small rural

---

[6] Id. at 1027-8. Each of the seven BOCs has implemented ONA, and has been granted structural relief by the Commission.

[7] We did not need to propose any change to the cost accounting safeguards applicable to GTE because, as a Tier 1 local exchange carrier (LEC), GTE is already fully subject to the same requirements as the BOCs. Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities and Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Telephone Companies to provide for Nonregulated Activities and to Provide for Transactions Between Telephone Companies and Their Affiliates, Report and Order, 2 FCC Rcd 1298, 1304-05 (1987) (Joint Cost Order), recon. 2 FCC Rcd 6283 (1987), further recon., 3 FCC Rcd 6701 (1988), aff'd sub nom., Southwestern Bell v. FCC, 896 F. 2d 1378 (D.C. Cir. 1990), BOC Safeguards Order, 6 FCC Rcd 7571 (1991). We do not address at this time the application of ONA and nondiscrimination safeguards to independent telephone companies other than GTE.

[8] In reaching this tentative conclusion, the Notice specifically considered GTE arguments that the Contel merger made the company more rural and dispersed and, therefore, a less appropriate subject for ONA requirements. Notice, 7 FCC Rcd at 8667, paras. 10-11.

local exchange operations.[9] We sought comment on this analysis, and ten parties filed comments and six parties filed reply comments.[10]

6. Positions of the Parties. As it argued before we adopted the Notice, GTE contends that today the case for applying ONA requirements to GTE is weaker than it was in the past. GTE cites the occasions in the past when the Commission determined that the more rural and geographically dispersed characteristics of GTE and the circumstances affecting its operations justified treatment different from that accorded the BOCs. GTE argues that factors related to its merger with Contel provide an even stronger justification for treating GTE and the BOCs differently. In particular, GTE argues that, since its merger with Contel, its operations are more rural and geographically dispersed, covering over forty states and twice GTE's previous service territory.[11] GTE contends that the nationwide distribution of its service areas in many noncontiguous locations prevents GTE from exercising monopoly control to the same extent as the BOCs, and gives GTE less ability to discriminate than the BOCs.[12] GTE argues that the geographically dispersed nature of its operations discourages, if not prevents, it from using its market position for anticompetitive purposes. In addition, GTE contends that its service areas tend to be surrounded by the BOCs, which provide competitive pressures.[13] GTE further states that it is subject to regulation by forty state commissions, and that this heavy regulatory burden, coupled with the prospect of additional Commission requirements, places GTE at a distinct disadvantage compared to its competitors.[14]

7. GTE contends that applying ONA requirements only to selected portions of its territory is unwarranted and would provide only relatively small savings because the costs of compliance, such as systems development costs, are largely insensitive to volume.[15]

---

[9] Id. at para. 12.

[10] A list of parties filing comments and replies is attached as Appendix A.

[11] GTE Comments at 17-23.

[12] Id. GTE also states that its offices tend to be smaller that those of the BOCs (fewer access lines per exchange), less densely populated (fewer access lines per square mile), and contain a smaller percentage of business customers than BOC service areas. GTE notes that it has a presence in only two of the top 50 markets (MSAs). Id. at 23-7.

[13] Id. at 24-5.

[14] In particular, GTE compares its state regulatory burden with that of US West that operates in fourteen states and Pacific that is subject to regulation in only two state jurisdictions. Id. at 28-30.

[15] Id. at 72-3.

For instance, GTE argues that the costs of ONA compliance for their service areas in ten states would be virtually the same as for their service areas in all forty states.[16] GTE further contends that only three GTE service areas could be said to resemble BOC service areas: west-central Florida, Hawaii, and portions of California. GTE argues that mandatory ONA requirements and nondiscrimination safeguards cannot be justified for these areas alone,[17] but that applying ONA requirements to these three locations would generate 40% of the volume-sensitive costs of compliance and nearly 100% of systems development costs.

8. GTE also contends that there is no significant benefit to be gained by imposing the BOC ONA requirements and nondiscrimination safeguards because GTE is already achieving many of these goals on a voluntary basis, and its customers are now receiving the associated benefits.[18] According to GTE, it must offer competitively priced, high value services to customers to compete in today's marketplace.[19] GTE also cites the scarcity of complaints filed with the Commission as an indicator that it has not engaged in discriminatory practices against ESPs.

9. In light of the factors discussed above, GTE argues that the costs associated with implementing ONA requirements and the nondiscrimination safeguards outweigh the benefits.[20] GTE argues that while we compared the "benefits" with the "costs" associated with imposing restrictions in the past, the Commission did not consider the costs of imposing additional regulation on GTE in the Notice. Instead, GTE contends that the Notice merely focuses on the increased number of subscribers to conclude that the benefits of ONA for GTE have increased. GTE argues that while the benefits may have increased, so have the costs, and that they continue to outweigh the benefits. In sum, GTE argues that our decision must reflect an understanding that:

---

[16] GTE Reply Comments at 4.

[17] GTE Comments at 71-3.

[18] Id. at 41-5.

[19] Id. at 14.

[20] As it argued before we issued the Notice, GTE initially estimated in this proceeding that the cost of implementing these requirements would be nearly $20 million in the first year. It stated that the costs would be primarily for systems and hardware costs associated with access to GTE's Operations Support Systems. See Notice, 7 FCC Rcd at 8667, n. 28. GTE Comments at 4. Based on the clarification in the BOC ONA Amendment Reconsideration Order, GTE now estimates that the cost for ONA implementation will be approximately $3.7 million for the first year and $7.8 million and $14.6 million for the next five and ten years respectively. See Ex Parte Letter from Edwin J. Shimizu, Director - Regulatory Matters, GTE, to Claudia Pabo, Policy and Program Planning Division, Common Carrier Bureau, FCC, October 21, 1993.

its market position is far less favorable than that of the BOCs, the proportionate cost impact on GTE would be far greater than it was on the BOCs, and GTE's ability to engage in anticompetitive activity is far less.[21] GTE also argues that these requirements would result in a dramatically increased regulatory burden in today's environment of reduced regulation.[22] Sprint joins GTE in arguing that the application of ONA requirements to GTE's service areas is not in the public interest.[23]

10. Eight parties, including an interexchange carrier, ESP, end user, and a LEC, support imposing ONA requirements on GTE.[24] Bell Atlantic states that the federal appellate courts have rejected previous attempts to distinguish GTE's service areas from those of the BOCs.[25] ITAA argues that the Commission has never really provided a rational basis for exempting GTE from the separate subsidiary requirements of Computer II. ITAA further notes that the US Court of Appeals for the Ninth Circuit stated that there has been "no coherence in the Commission's policy shifts in deciding which carriers to subject to separation requirements."[26]

11. Several of the parties argue that GTE resembles a BOC despite the geographic dispersion of its service areas. Thus, Bell Atlantic, ITAA, Hawaii, and GSA argue that it is appropriate to eliminate any regulatory distinction between GTE and the BOCs.[27] Hawaii argues that GTE is equivalent in size and financial strength to a BOC for all relevant purposes.[28] Hawaii contends that GTE enjoys the same monopoly control over the local exchange as the BOCs. Hawaii also argues that GTE has a sufficient presence in urban areas to warrant the

---

[21] GTE Comments at 39.

[22] Id. at 11-5. GTE further argues that these requirements should not be imposed because the exchange carrier bottleneck is a diminished concern in today's competitive environment.

[23] Sprint argues that ONA, in its current form, generates significant costs but few, if any, benefits. Sprint Comments at 5.

[24] ATSI Comments at 1; Bell Atlantic Comments at 1; GSA Comments at 3; Hawaii Comments at 1; ITN Comments at 10; ITAA Comments at 2-3; MCI Comments at 1; and NAB Comments at 7. Several parties argue that, although ONA is not what they had originally envisioned, it is the only protection against discrimination that they have. ITAA Comments at 5-6; ATSI Comments at 1; and MCI Comments at 1.

[25] Bell Atlantic Comments at 1-3.

[26] ITAA Comments at 4.

[27] Bell Atlantic Comments at 1-3; ITAA Comments at 5; Hawaii Comments at 2; GSA Comments at 4.

[28] Hawaii Reply Comments at 5-6.

imposition of ONA requirements.[29] ATSI and Hawaii argue that GTE's average overall line density is higher than that of US West.[30] Hawaii also argues that GTE is financially capable of complying with all the ONA requirements and nondiscrimination safeguards.[31] ITN states that the Commission was probably correct in its initial conclusion that the application of ONA requirements and nondiscrimination safeguards to GTE would yield fewer benefits than their application to the BOCs. ITN contends, however, that emerging technologies, particularly Signaling System Seven (SS7), Integrated Services Digital Network (ISDN), and Intelligent Network (IN), have substantially altered this analysis.[32] MCI notes that the Commission did not consider geographic dispersion of service areas to be a sufficient reason to justify exempting GTE from the Commission's expanded interconnection requirements.[33] MCI argues that GTE is now too large in size and scope to remain outside the coverage of ONA.[34] MCI further argues that ONA provides enough flexibility in the degree of uniformity required to account for the geographic dispersion of GTE's territory.[35] Bell Atlantic contends that if the Commission imposes different requirements based upon the density of the populations various carriers serve, it should apply the same rules to the urban and rural areas of both GTE and the BOCs.[36]

---

[29] Hawaii Comments at 6 and Appendix B. Hawaii notes that the Commission imposed ONA requirements on small urban areas such as Burlington, Vermont which is served by the BOCs. Id.

[30] ATSI Comments at 14; Hawaii Comments at 5.

[31] Hawaii Comments at 3-4. Hawaii argues that additional revenues may be generated by the growth in GTE's basic services arising from the increased purchases by ESPs under ONA. Hawaii Reply Comments at 5. GTE disputes Hawaii's conclusion that it would realize increased revenues from additional business access, stating that GTE has already implemented an equivalent of ONA, and any increases in traffic would already have occurred. GTE Reply Comments at 3-4. In its reply comments, Hawaii disagrees with GTE's arguments regarding the costs of complying with nondiscrimination rules, arguing that GTE fails to provide support materials for its estimate of the cost of implementing ONA. Hawaii further states that there are benefits to be gained from ONA. Hawaii Reply Comments at 3-4.

[32] ITN Comments at 9.

[33] MCI Reply Comments at 4-5.

[34] MCI Comments at 5.

[35] Id. at 1.

[36] Bell Atlantic Comments at 1-2.

12. Several parties supporting the application of ONA requirements to GTE argue that ONA should be applied because GTE has the ability to discriminate.[37] ITAA and ITN argue that GTE is in a better position to discriminate now than the BOCs.[38] As evidence of GTE's ability to discriminate, ITN cites the nationwide character of GTE's facilities and operations, GTE's recent and ongoing efforts to enter the interexchange business, and the absence of competitive access providers (CAPs) due to GTE's less urban operations.[39] MCI argues that GTE's nationwide scope and relative freedom from competition create opportunities for GTE to discriminate against ESPs and other customers.[40] Similarly, the NAB argues that GTE has an incentive to discriminate against competing ESPs and information services providers because unlike the BOCs, who were barred from competing in this market for a number of years by the Modified Final Judgment (MFJ), GTE is already active in the enhanced services area.[41] GSA argues that the growth of ESP competition increases, rather than diminishes, the need for an ONA tariff and service framework in GTE's operating areas. GSA further argues that without ONA, emerging ESPs will be hindered, if not foreclosed, from entering markets served by GTE.[42]

13. A number of commenters oppose restricting application of ONA requirements and nondiscrimination safeguards to select

---

[37] Hawaii Comments at 1; MCI Reply Comments at 3, ITN Comments at 10; and ITAA Comments at 2. Bell Atlantic states that our disparate treatment of the BOCs and GTE appears to have encouraged proposals in Congress to curtail the ability of the BOCs, but not GTE, to provide new information services. Bell Atlantic states that we should not encourage this unjustified discrimination by continuing to treat comparable companies differently. Bell Atlantic Comments at 2-3.

[38] ITAA Comments at 5; ITN Comments at ii. ATSI claims that there are several instances in which GTE has advantageously used its position as both a monopoly provider of basic services and as a competitor in the voice messaging marketplace. ATSI Comments at 11. GTE denies anticompetitive activity in the instances cited by ATSI and states that in one instance the Common Carrier Bureau declined to pursue the matter further, and in another instance, to avoid customer confusion GTE established a separate notification process to inform ESPs of available services. GTE Reply Comments at 5-11.

[39] ITN Comments at 8-12. ITN also argues that GTE's largely suburban and rural character makes cross-subsidization easier and more likely. Id.

[40] MCI Reply Comments at 3.

[41] NAB Comments at 3, 5.

[42] GSA Reply Comments at 3.

portions of GTE's dispersed territory.[43] ITAA argues that the small, rural nature of some of GTE's local exchange operations does not justify relaxing ONA requirements.[44] ITN argues that, if GTE is providing its own enhanced services using services, facilities, or interconnections in a particular area, then there is no justification for GTE not to provide these same services, facilities, or interconnections to other ESPs on the same terms and conditions.[45]

14. The majority of parties also support mandatory application of the BOC requirements, rather than permitting GTE to continue with its program of voluntarily implementing ONA requirements and nondiscrimination type safeguards.[46] ITAA argues that since the Computer III safeguards have been embraced by the BOCs, they cannot be deemed unduly onerous for an organization of GTE's size and resources.[47]

15. GTE contends that it achieves the goals of CEI and ONA to the extent possible and without generating substantial and unnecessary costs that will either be recovered from the ESP customer base or will prove unrecoverable.[48] In its reply, GTE argues that no commenter describes any ONA/CEI benefit that is not currently being provided by GTE.[49]

16. Discussion. We conclude that we should no longer exempt GTE from complying with ONA requirements and nondiscrimination safeguards. In Computer III, the Commission initially applied ONA requirements and nondiscrimination safeguards to the seven BOCs. At the same time, we concluded that ONA should not apply to GTE because

---

[43] Hawaii Comments at 2; ATSI Comments at 13; and MCI Comments at 1.

[44] ITAA Comments at 7.

[45] ITN Comments at 12.

[46] GSA Comments at 5; Hawaii Comments at 2-3; ITAA Comments at 3-7; and MCI Reply Comments at 5-6. ITN also contends that transport elements should be provided on an unbundled basis in order to ensure that ESPs and others using network services are not required to purchase or cross-subsidize network elements they do not use. ITN Comments at 13. We decline to address ITN's argument, which is outside the scope of this proceeding.

[47] ITAA Comments at 8. ITAA states that the BOCs are now vigorously defending these safeguards before the U.S. Court of Appeals for the Ninth Circuit. Id. See California v. FCC, 4 F.3d 1505 (9th Cir. 1993).

[48] GTE describes its voluntary ONA measures and argues that they replicate the safeguards implemented by the BOCs. GTE Comments at 42, Appendix J.

[49] GTE Comments at 41-2, Appendix J; GTE Reply Comments at 19-20.

of its more rural and dispersed service areas, although we recognized that it was as large as some of the BOCs. We stated, however, that we would revisit this decision once the BOCs had implemented ONA.[50] Thus, while we believed that the nature of GTE's service territory justified implementing ONA and the nondiscrimination safeguards for the BOCs first because of the greater danger of discrimination and therefore greater potential benefits of these protective measures, we clearly never intended this analysis to bar eventual application of ONA requirements and nondiscrimination safeguards to GTE. When this Commission initiated ONA in 1986, we also emphasized that ONA was an evolutionary program whose specific requirements would be defined and implemented over time through a step-by-step process.[51]

17. Now that the BOCs have implemented ONA and the Commission has lifted the structural separation requirement from all of the BOCs, we believe that it is appropriate to move forward by extending ONA requirements and nondiscrimination safeguards to GTE. We believe that the public interest benefits of applying these measures to GTE amply justify our taking the next logical step toward an overall environment that will foster a fully competitive market for the provision of enhanced services to the American public. The BOC provision of services pursuant to these requirements has resulted in greater access by ESPs to unbundled services that ESPs can use to provide enhanced services to customers. These requirements will extend greater access to the largest non-BOC local telephone company, thus facilitating the provision of additional information age services and greater price competition to consumers. These factors will foster economic growth. Insofar as our conclusions in this proceeding are different from our prior analysis of GTE's operations, we believe that they reflect both our experience with ONA requirements and nondiscrimination safeguards obtained after that earlier analysis, and a more current record developed in proceedings focusing exclusively on ONA for GTE that incorporates that experience.

18. Based on the record in this proceeding, we conclude that the benefits of applying ONA requirements and nondiscrimination safeguards to GTE now substantially outweigh the costs involved.[52] GTE is a very large company, with several major service areas that resemble BOC territories. We believe that consumers in these areas will benefit substantially from an environment that fosters the competitive

---

[50] Phase II Order, 2 FCC Rcd at 3073, 3101, para. 201.

[51] Phase I Order, 104 FCC 2d at 1064, para. 213; BOC ONA Order, 4 FCC Rcd at 12, n. 12.

[52] Sprint argues that if ONA is extended to GTE, the Commission should reconsider its earlier decisions in CC Docket 89-79 to allow GTE and the BOCs to continue to offer packaged feature group arrangements, and allow ESPs to obtain interstate BSA and BSEs at economical rates. Sprint Comments at 4-6. We decline to address Sprint's request that we reconsider the decision in CC Docket 89-79 as it raises matters beyond the scope of this proceeding.

provision of enhanced services. The costs that GTE cites for implementation of these safeguards are quite modest, and, by GTE's own admission, are largely volume insensitive, i.e, they do not increase substantially because of inclusion of GTE's smaller, rural service areas.

19. At the outset, we note that GTE is substantially similar to the BOCs in overall size. When compared to the BOCs, GTE ranks second behind BellSouth in total operating revenue, total gross plant, and the number of employees.[53] While GTE has many service areas that are smaller and more rural than those of the BOCs, it has more working loops than Southwestern Bell even if study areas with less than 200,000 working loops are excluded.[54]

20. In addition, GTE serves a number of major urban areas or large geographically contiguous regions in Florida, California, Hawaii, and Texas that resemble BOC service areas. In fact, GTE has 3.4 million working loops in California alone. Moreover, GTE has nine study areas with more than 500,000 working loops.[55] In these areas, GTE's size and large number of customers give it substantial ability and incentive to discriminate against competitors in the enhanced services market. GTE argues that we should not be concerned about the potential for it to discriminate against enhanced service providers

---

[53] USTA Holding Company Report (1992). See Notice, 8 FCC Rcd at 8667, para. 8. GTE ranks fourth in the number of access lines, behind Bell Atlantic Corporation, BellSouth Corporation, and Ameritech. See USTA Holding Company Report (1992). The recent merger with Contel added to GTE approximately $3.4 billion in total revenue, 2.7 million additional access lines, and 1,700 local exchanges, placing GTE in the position of one of the largest local exchange carriers in the United States by many measures.

[54] Separations data for 1992 show that Wyoming is the smallest full size BOC study area with 228,000 working local loops. Even when GTE study areas with less than 200,000 working loops are excluded, GTE has 12,860,000 working loops compared to Southwestern Bell with 12,747,000 working loops.

[55] This is based on 1992 separations data.

for a number of reasons. We do not find these contentions persuasive.[56]

21. We believe that consumers in these large GTE service areas would benefit substantially from an environment that fosters the competitive provision of enhanced services. The ONA requirements and nondiscrimination safeguards ensure that non-local exchange carrier (LEC) ESPs can use the local network efficiently, purchasing only the functionalities that they need. ONA also ensures that the LECs will make available the functionalities that their competitors need. The nondiscrimination safeguards ensure that the LECs do not favor their own enhanced service providers in the provision of basic network services. These protections erect a necessary framework for the development of competitive enhanced services. Based on our experience with competition in other markets, we believe that competition in the enhanced services market will spur the development of new offerings and lead to lower rates.

22. GTE's primary argument against the Commission's imposing ONA requirements and nondiscrimination safeguards on it appears to be the costs of implementation. The implementation costs cited by GTE are relatively minor, however. GTE originally claimed $20 million in first year implementation costs, with $16 million of this related to Operations Support Systems (OSS)[57] and has since reduced its estimated cost for first year implementation to $3.7 million,[58] in light

---

[56] For example, the fact that GTE is subject to regulation in forty states does not distinguish it from the BOCs, which are also subject to regulation in each state in which they have significant operations. Moreover, state regulators do not have authority to require compliance with ONA requirements and nondiscrimination safeguards for the provision of interstate basic services. Nor do we believe that the development of access competition or the presence of BOC operations in proximity to GTE service areas sufficiently alleviates the potential for discrimination. In fact, because of the less urban nature of its service areas GTE may face less competitive pressures from competitive access providers than certain of the BOCs. While the Commission is moving to reduce regulation when possible, we cannot relax measures such as ONA requirements and the nondiscrimination safeguards at present without threatening effective enhanced services competition.

[57] Examples of OSS services are service order entry and status; trouble reporting and status; diagnostics, monitoring, testing, and network reconfiguration; and traffic data collection. These four OSS services are defined as ONA services. See BOC ONA Second Further Amendment Order, 8 FCC Rcd 2606, 2611 at n. 64.

[58] See supra n. 20. By contrast, as of year end 1992, GTE had gross revenues of $12.2 billion for its domestic operation. See USTA Holding Company Report, (1993 edition). GTE's 1992 gross revenues for its domestic and international operations combined were $19.9 billion. See FCC Common Carrier Statistics (1993).

of the Commission's BOC ONA Amendment Reconsideration Order[59] clarifying our OSS requirements.[60] We are now able to use the substantial experience we have gained in implementing ONA for the BOCs to streamline procedures and reduce regulatory costs for GTE. Because of this experience, GTE's costs of complying with ONA will be less than they would have been had we applied ONA to GTE at the outset of the ONA process.

23. In addition, the costs of implementing ONA requirements and the nondiscrimination safeguards are not greatly affected by inclusion of GTE's more dispersed, rural service areas. For the most part, the implementation costs cited by GTE are fixed costs related to modifying centralized systems. These costs are largely unaffected by inclusion of GTE's smaller service areas.[61] As a result, in balancing the costs and benefits of applying ONA requirements to GTE today, we accord less weight to the dispersed nature of GTE's service areas than we did when we first considered application of these safeguards to GTE in the Computer III proceeding.[62] In addition, the ONA framework permits some variation in the number and nature of ONA services based on demand in different areas. This will allow GTE some flexibility to tailor its ONA offerings to the demand for them in its different service areas.

24. We do not believe that GTE's voluntary ONA measures should exempt it from mandatory compliance with ONA requirements and nondiscrimination safeguards. GTE's voluntary ONA requirements and nondiscrimination measures, while commendable, fall well short of the BOC standards.[63] In developing the BOC requirements, we conducted

---

[59] 8 FCC Rcd 97 (1993).

[60] See generally, Letter from Edwin J. Shimizu, Director--Regulatory Matters, GTE, to William F. Caton, Acting Secretary, FCC, dated October 21, 1993 (GTE October 14, 1993 Ex Parte Letter).

[61] GTE states that the costs of implementing ONA are largely non-volume sensitive and that excluding smaller study areas will result in limited savings. GTE states that virtually all the start-up costs associated with implementing ONA and the nondiscrimination safeguards would be incurred whether they are applied to GTE operations in one state, ten states, or forty states. GTE Reply Comments at 4; GTE October 21, 1993 Ex Parte Letter.

[62] Thus, we do not find that the Contel merger (which added approximately 20% more access lines, but nearly doubled the total GTE service territory) justifies continued exemption of GTE from these safeguards. GTE Comments at 15-7.

[63] GTE's voluntary network disclosure and CPNI programs lack certain important elements contained in the BOC requirements. See infra. paras. 45 and 53. In addition, GTE's voluntary program does not include disclosure of important information that the BOCs must report. See infra. paras. 54, 55 and 56. We discuss the merits of

extensive proceedings to determine the safeguards necessary for a competitive enhanced service market.[64] Given the major differences between the safeguards GTE has implemented voluntarily and the measures that we developed after extensive proceedings for the BOCs, we do not believe that GTE's voluntary safeguards can achieve our goals.[65] In sum, we agree with the majority of commenters that GTE should be required to implement ONA and comply with the nondiscrimination safeguards.[66] Our experience with the implementation of ONA for the BOCs has reaffirmed our prior conviction that ONA serves an important function in fostering a fully and fairly competitive environment for the provision of enhanced services.[67] Our action today is an additional step toward achieving this public interest goal.[68]

---

reduced ONA and nondiscrimination safeguards for GTE in more detail below.

[64] GTE states that it is not contending that ONA safeguards applied to the BOCs should be changed. GTE Comments at 8.

[65] Insofar as GTE's request that it be allowed to continue with voluntary measures and its other arguments could be viewed as an attempt to challenge in a general fashion the reasonableness of the existing ONA requirements and nondiscrimination safeguards as applied to GTE, we find that such arguments are adequately addressed in prior Computer III and ONA orders, and we incorporate herein the reasoning in those orders. See supra. n. 3. GTE's requests for modification of specific aspects of the BOC requirements when applied to GTE are discussed in more detail in the following sections.

[66] Enhanced service providers and certain other parties strongly support our imposing these requirements on GTE, even though they have criticized the Commission's safeguards as not going far enough. Despite this, they believe that the application of ONA requirements and nondiscrimination safeguards would be substantially superior to the current situation. MCI Comments at 1; ATSI Comments at 13-4.

[67] ONA Remand Order, 5 FCC Rcd at 7720, paras. 7-11.

[68] In the Notice, we stated that "it appears that the GTE Consent Decree no longer requires GTE to establish a separate subsidiary or division for its provision of information services." 7 FCC Rcd 8664, 8666 n.24. In its comments, the NAB argues that the Commission should not assume that the GTE Consent Decree's separation requirements are no longer in effect. NAB Comments at 2-3, and 6-7. It also urges the Commission "to retain the separate subsidiary requirements placed on GTE by the Consent Decree ...." Id. at 7. GTE states that the Commission has never made GTE subject to a separate subsidiary requirement, and that the restrictions of the GTE Consent Decree regarding the provision of information services do not amount to a separate subsidiary requirement. It appears that the GTE Consent Decree no longer requires structural separation for the provision of information services. See U.S. v. GTE Corp., No. 83-1298-HHG (D.D.C. Nov. 27, 1991). Of course, definitive interpretation of the GTE

III. Specific ONA Requirements and Nondiscrimination Safeguards for GTE

A. ONA Plan

25. In the Notice, we proposed to require, within twelve months of the release of this Order, that GTE comply with the same ONA requirements and nondiscrimination safeguards that apply to the BOCs.[69] We proposed to streamline implementation of ONA requirements and nondiscrimination safeguards by GTE based on experience we gained implementing ONA for the BOCS. We also sought comment on whether we should modify the BOC requirements insofar as we apply them to GTE. In this Order, we require GTE to comply with the ONA requirements and nondiscrimination safeguards applicable to the BOCs.[70]

26. Since we conclude that GTE must comply with the same requirements we have established for the BOCs, we refer GTE to the numerous orders in the Computer III and the ONA proceedings that provide detailed review and guidance on how it should implement ONA. Among other things, we require GTE to comply with the CEI requirements and all other ONA requirements imposed in the Computer III and ONA proceedings. We do not require that GTE detail these measures in the ONA plan it must submit to the Commission as long as GTE's ONA program follows specific procedures approved for the BOCs and is consistent with requirements set out in the ONA orders.[71] If GTE wants to request authority to meet the requirements in a different way, it must justify the request in its ONA plan. We do not expect that GTE will use the latter option as an opportunity to relitigate the requirements of the

---

Consent Decree, is the province of the courts. See New York SMSA Limited Partnership, 58 RR 2d 525, 530 (1985). In any event, to the extent that the NAB requests that we impose a structural separation requirement, that request is beyond the scope of this proceeding.

[69] In the Computer III proceeding, we developed the regulatory framework of ONA. Phase I Order, 104 FCC 2d at 1039-43, paras. 154-167. ONA has been evolving since 1986, and it functions as one of the nonstructural safeguards that help prevent discrimination against competing ESPs. As we stated in the ONA Remand Order, ONA produces public interest benefits, and should be implemented independent of any other safeguards for BOC provision of enhanced services. ONA Remand Order, 5 FCC Rcd at 7720, para. 7. In the BOC Safeguards Order, we also instituted a strengthened set of cost accounting and nondiscrimination safeguards to govern the BOCs' participation in the enhanced services market. BOC Safeguards Order, 6 FCC Rcd at 7576, para. 10, 7624 n. 212.

[70] GTE is to comply with the requirements applicable to the BOCs except insofar as exceptions are authorized in this Order.

[71] GTE must state in its plan when it is complying with ONA plan requirements in a specific manner already approved for the BOCs.

Computer III and ONA proceedings.[72] The GTE ONA plan must be filed nine months after the release of this Order.[73] In addition, we require that GTE participate in the Information Industry Liaison Committee (IILC) beginning thirty days after publication of this Order in the Federal Register. GTE must also report to the Commission on its progress on IILC activities as we have required the BOCs to do. We address below specific claims by GTE regarding the applicability of the ONA requirements to GTE.

B. ONA Requirements

1. Initial ONA Offerings and Deployment Projection Reports

27. Background/Notice. In the Notice, we proposed to review GTE's ONA offerings under the standards we applied to the BOCs.[74] Thus, we proposed to require that GTE demonstrate that its proposed initial set of ONA service offerings will adequately meet the needs of ESPs in its service areas. As was the case with the BOCs, we proposed to require that GTE provide annual deployment projections for the current year and each of three future years by type of ONA service.[75]

28. Positions of the Parties. GTE states that the annual ONA Service Deployment Projection Report contains percentages of lines in market areas that are, or will be, capable of providing an ONA service. GTE argues it should not be required to file this report because ESPs are able to use the percentages shown by the BOC as a guide for all LECs in that market because most areas are dominated by

---

[72] Accordingly, we do not expect GTE to propose in its ONA plan specific measures that we have previously rejected absent extraordinary circumstances.

[73] We delegate to the Common Carrier Bureau authority to review and act on GTE's ONA plan.

[74] See Notice, 7 FCC Rcd at 8668, para. 17.

[75] GTE would be required to show the percentage of total access lines for which ONA services are provided in GTE's entire territory and by market area for all proposed interstate and intrastate ONA services, including BSAs, BSEs, CNSs, and ANSs. As used in the BOC ONA plans, the term "market area" generally referred to a contiguous geographic area whose boundaries were delineated by the BOC. A market area encompasses at least one standard metropolitan statistical area (SMSA) or, in the case of densely populated states, one consolidated statistical area (CSA), as defined by the United States Census Bureau. "Market areas" do not necessarily encompass an entire local access and transport area (LATA). See BOC ONA Order, 4 FCC Rcd at 179-80 n.822.

BOCs. GTE states that for the report to be useful, an ESP would need to know whether GTE's presence in the market area is significant. GTE further states that ESPs with this knowledge are sufficiently informed about the particular market area that the value of the additional information contained in the report would not outweigh the production cost. GTE states that for ESPs to use the GTE report, ESPs will need to weigh the BOC and GTE percentages of lines served.[76]

29. GSA states that we should consider GTE's argument for not complying with the annual ONA service deployment projection report requirement. GSA states that as a practical matter, ESPs gain little from, and may be misled by, forecasts relating to deployment by carriers having only a minor share in a given market. GSA states that we should consider exempting carriers from reporting these statistics in markets in which their share is perhaps, for example, 20% or less.

30. Discussion. We require that GTE demonstrate in its ONA plan that its proposed initial offering of ONA services will adequately meet the needs of ESPs in its service areas.[77] We note, based on our preliminary review of the ONA services included in GTE's voluntary ONA program, that the list of services is representative of ONA services currently provided by the BOCs,[78] but we will give parties another opportunity to comment specifically on the initial set of offerings after the plan is filed.

31. We also require GTE to file ONA deployment projections. These projections provide continuing information to the Commission and ESPs on what services will be available in specific areas in the near future, and thus provide the opportunity for interested parties to seek any needed changes on a timely basis. We disagree with GTE's argument that the deployment reports will be misleading. We require GTE to provide the total number of lines in each market area as well as the percentage of the lines on which particular ONA services are available. ESPs that want information about BOC services in a market area can review the BOC deployment reports.

---

[76] GTE Comments at 62-3.

[77] Id. at Appendix U.

[78] In Computer III, we required the BOCs to justify their initial offerings of ONA services based on the expected market demand, the services' utility as perceived by enhanced services competitors, and technical and costing feasibility. Phase I Order, 104 FCC 2d at 1065-66, para. 217. In the BOC ONA Order, we carefully reviewed the BOCs' proposed initial ONA service offerings in this regard. We approved the proposals in part but also required each BOC to compare its offerings to those of other BOCs in an attempt to achieve greater uniformity among the proposed BOC ONA offerings. We approved the BOCs' proposed offerings in the BOC ONA Amendment Order, 5 FCC Rcd at 3104, para. 1. Subsequently, the BOCs filed their ONA tariffs implementing the offering of their approved ONA service proposals.

32. Accordingly, we require that GTE comply with the ONA deployment projection reporting requirements applicable to the BOCs. Among other things, GTE is to provide in its ONA plan annual deployment projections for the current year and each of three future years for each ONA service, showing the percentage of access lines served in GTE's entire territory and by market area for all proposed interstate and intrastate ONA services, including BSAs, BSEs, CNSs, and ANSs.[79] This information must be filed with GTE's ONA plan nine months after release of this Order. Thereafter, the deployment report must be filed annually with the other annual reports discussed below on July 31 of each year beginning July 31, 1996.

2. Annual and Semiannual ONA Reports

33. Under our proposal, GTE would also be subject to all of the annual and semiannual ONA reporting requirements that are applicable to the BOCs. In addition to the projected deployment schedules for their ONA services, which are discussed above, the GTE annual reports are to include: new ONA service requests from ESPs and ONA service requests that were previously deemed technically infeasible; information on SS7, ISDN, and IN projected deployment; new ONA services available through SS7, ISDN, and IN; various progress reports on the implementation of service-specific and long-term uniformity issues, billing information, and OSS services, and a list of BSEs used in the provision of GTE's own enhanced services.[80] In the BOC ONA Further Amendment Order, we required the BOCs to provide semi-annual reporting of tariffed ONA services by state and federal jurisdiction. We tentatively concluded that these requirements would assure achievement of our public interest objectives for application of ONA requirements to GTE. The semiannual reporting requirements would include the filing of a matrix of GTE ONA services and state and federal tariffs; data regarding state and federal tariffs; the ONA Services User Guide; and other updated information in the areas of ESP requests, GTE responses, and services offered.[81]

---

[79] To facilitate review of GTE's proposed initial offering of ONA services and comparison with the ONA services offered by the BOCs, we require that GTE use the generic ONA Services User Guide names in its description of its proposed ONA services.

[80] BOC ONA Further Amendment Order, 6 FCC Rcd at 7677-78, Appendix B.

[81] BOC ONA Further Amendment Order, 6 FCC Rcd at 7677-78, Appendix B. BOC Open Network Architecture Tariffs, 7 FCC Rcd 1512 (1992) (Ameritech not included); Ameritech Operating Companies, Revisions to Tariff F.C.C. No. 2, Open Network Architecture, 7 FCC Rcd 257 (1992) (Ameritech's ONA transmittals became effective in December 1991).

34. Positions of the Parties. GTE states that a tariff referencing report for its operations would be far larger and more complex than any BOC report because GTE has over 180 tariffs, substantially more than any BOC. GTE also states that compiling the ONA Services User Guide information would be a major effort that would produce an unwieldy report of little use to anyone. GTE claims that information on central offices would result in more than 10,000 pages of information, thus requiring ESPs to wade through three times as much information in order to get a quarter of usable information per entry. GTE disputes the need for technical capabilities annual reports, arguing that since it uses the same switches as BOCs, GTE's reports would be similar to those filed by the BOCs. GTE argues that significant costs will have to be incurred in preparing these reports because of the demographic and organizational differences between GTE and the BOCs. In addition, GTE argues that this report would produce information of little incremental value and would likely confuse ESPs.

35. Discussion. We believe that the semi-annual tariff report will give ESPs valuable information to use in determining where tariffed services are available from GTE. This report will enable the Commission and others to monitor the availability of ONA services by state and federal jurisdiction. Thus, we require GTE to begin providing this report to the Commission on September 30, 1995, and every six months thereafter.[82] We also conclude that the annual reports like those we have required for the BOCs are necessary to monitor the progress of GTE in implementing ONA. Accordingly, we require that GTE comply with these annual reporting requirements described in the BOC ONA Amendment Order, beginning July 31, 1996.

C. Nondiscrimination Safeguards

36. In Computer III, we developed a set of nondiscrimination safeguards and requirements that govern the BOCs' provision of enhanced services. These nondiscrimination safeguards consist of Customer Proprietary Network Information (CPNI) rules, network information disclosure rules, and nondiscrimination reporting requirements. As a Tier 1 LEC, GTE is already fully subject to the same cost accounting safeguards adopted in the BOC Safeguards Order.[83]

37. The CPNI rules permit the BOCs to participate efficiently in the enhanced services market while balancing efficiency

---

[82] See BOC ONA Further Amendment Order, 6 FCC Rcd at 7678. GTE may address concerns about the size and format of the ONA Users Guide Central Office report in its ONA plan. We delegate authority to the Chief, Common Carrier Bureau to review and to act on any requested changes in this reporting requirement for GTE.

[83] See supra n. 7.

goals with competitive equity and privacy considerations.[84] Network information disclosure rules ensure that independent ESPs receive timely access to technical information related to new or modified network services affecting the interconnection of enhanced services to the BOC networks.[85]

38. In the Notice, we proposed to streamline implementation of nondiscrimination safeguards for GTE by requiring it to comply with each of these requirements in a manner already approved in an ONA plan for at least one of the BOCs, unless GTE justifies a different approach in this rulemaking.[86] In this Order we require that GTE comply with all the nondiscrimination safeguards applicable to the BOCs. GTE must address how it will comply with the nondiscrimination safeguards in its ONA plan.[87] We address below each of GTE's arguments opposing application of the specific BOC ONA nondiscrimination safeguards to GTE.[88]

---

[84] BOC ONA Order, 4 FCC Rcd at 223, para. 430; BOC ONA Amendment Order, 5 FCC Rcd at 3119, para. 137; BOC Safeguards Order, 6 FCC Rcd at 7605-14.

[85] Under our network information disclosure rules, a BOC must disclose the relevant network information to an ESP at the "make/buy point" (subject to the ESP's execution of a nondisclosure agreement) and to the public at a point six to twelve months before introduction of the new or modified network service. Phase II Order, 2 FCC Rcd at 3087-88, paras. 107-12; see Phase I Order, 104 FCC 2d at 1080-86, paras. 246-55.

[86] Notice, 7 FCC Rcd at 8669, para 18.

[87] See supra para. 26. We do not require that GTE detail how it will comply with the nondiscrimination safeguards in the ONA plan as long as GTE's safeguards follow specific procedures approved for the BOCs and are consistent with our requirements. GTE must state in its plan when it is complying with nondiscrimination safeguards in a specific manner already approved for the BOCs.

[88] On December 22, 1992, NATA filed a petition requesting that we expand the scope of this proceeding to consider whether to apply nondiscrimination safeguards to GTE's provision of customer premises equipment (CPE). In its reply comments, NATA reiterates its request that we apply the same level of safeguards to GTE's CPE as to its enhanced services. NATA argues that, with the recent merger GTE is now larger than most of the BOCs, which are all subject to such nondiscrimination safeguards. See NATA Petition to Expand the Scope of Rulemaking, CC Docket No. 92-296, and NATA Reply Comments at 1-3. GTE argues that NATA's petition is without merit because we have decided this issue and there is no support for NATA's claim that GTE is discriminating against independent CPE vendors. GTE Comments at 32-3. In instituting this proceeding we did not propose to impose nondiscrimination safeguards for GTE's provision of CPE. Thus, NATA's request is beyond the scope of this proceeding. Moreover, as a matter

1. CPNI

39. Background. Our CPNI requirements apply with minor exceptions to all information obtained by the BOCs as a result of a customer's use of network services.[89] Under our CPNI rules, the BOCs' enhanced services marketing personnel may not access the CPNI of customers with more than twenty lines unless they have obtained prior authorization from the customer. Nor can BOC personnel access the CPNI of any customer that requests that such information be withheld from BOC personnel. Independent ESPs must obtain advance authorization from the customer to obtain access to customer CPNI. We also require BOCs to provide an annual written notice of CPNI rights to all multi-line business customers. Any aggregated CPNI that a BOC makes available to its employees involved in the marketing of its enhanced services must also be made available to independent ESPs on the same terms. Under our rules, BOCs must also develop password/ID systems to restrict the access of enhanced services marketing personnel to databases containing CPNI.

40. Positions of the Parties. Hawaii strongly supports application of the BOC CPNI requirements to GTE arguing that GTE would have an unfair competitive advantage in providing enhanced services if it is not subject to these requirements. Hawaii states that, without this, GTE may decide at any time, without penalty, to use CPNI information to its competitive advantage. Both ATSI and Hawaii also point out that the BOCs are required to share aggregated CPNI reports with unaffiliated ESPs, and that GTE is not subject to such a requirement.[90]

41. According to GTE, its CPNI practices achieve the goals of the Commission's CPNI requirements to the extent possible, given its special circumstances. GTE also states that it has sent a CPNI notification to all identified ESPs within its service areas. In addition, GTE contends its procedures are designed to ensure that GTE's enhanced services operations compete fairly with other ESPs.

42. GTE objects to the Commission's CPNI requirements for two reasons. First, GTE argues that it would be costly to require automatic restriction and customer notification for multiline

---

of administrative convenience we believe that any consideration of CPE safeguards should take place in a separate proceeding. Accordingly, we deny NATA's request to consider safeguards for GTE's provision of CPE in this proceeding.

[89] BOC ONA Order, 4 FCC Rcd at 213, para. 411.

[90] Hawaii Comments at 9; ATSI Comments at 5-6.

businesses.[91] Second, GTE argues that customers would be inconvenienced by having simple inquiries about service referred to a new, specially created contact organization. GTE contends that customers would incur delays and would lose rapport with their sales person. GTE states that, unlike the BOCs, it typically provides service in areas of dispersed population, including large numbers of rural areas, where many customers rely on GTE for assistance. GTE argues that, under the CPNI requirements, it will not be able to provide such assistance.[92]

43. GTE states that it currently employs two groups of personnel for marketing enhanced services: a sales group that is not solely responsible for sale of enhanced services, and a product managers group that is solely responsible for developing and marketing for each individual service. GTE argues that it cannot justify the costs of supporting sales specialists for enhanced services only, as GTE believes would be required under the CPNI safeguards. GTE claims that access to CPNI by these employees does not pose a threat to customer privacy. GTE adds that it is not its policy to use CPNI to generate lists for sales prospects, and that product managers have no ability to discriminate among customers.[93]

44. GTE claims that, as for password ID requirements, it "flags" accounts upon being notified in writing by customers that their CPNI is not to be shared. Hawaii argues that this approach is unsatisfactory for two reasons: (1) GTE is not required to notify GTE's customers of their CPNI rights, and (2) access to restricted accounts is still permitted for GTE-affiliated enhanced services personnel without a password ID system in place.[94]

45. Discussion. We conclude that GTE has not raised any persuasive arguments for approving a program of reduced CPNI compliance. Our CPNI requirements reflect a careful balancing of customer privacy, efficiency, and competitive equity interests. GTE's current voluntary program falls short of the BOC requirements in a number of important respects. For example, GTE proposes to provide notification of customer CPNI rights only to ESP customers rather than to all multiline business customers. In addition, GTE does not obtain authorization to use the CPNI from customers with more than twenty lines. The contentions that GTE has raised concerning the dispersed and rural nature of its service area do not persuade us that there are

---

[91] GTE estimates that this would cost $2 million for the first year, $5 million over five years, and $11 million over ten years. GTE Comments at 51.

[92] GTE also believes that multi-line business customers would be particularly confused by the required polling of their preference on the treatment/access to their CPNI. GTE Comments at 50-2.

[93] GTE Comments at 44-53; GTE Reply Comments at 28.

[94] Hawaii Comments 9.

special costs applicable to GTE that warrant giving GTE customers less CPNI protection than BOC customers.[95] We have previously rejected as insufficient GTE's approach of flagging records.[96] Accordingly, we require that GTE comply with the same CPNI requirements established for the BOCs within fifteen months of the release of this Order.[97] In its ONA plan, GTE must describe how it will meet the CPNI requirements and include the CPNI notification letter it proposes to send to its multiline business customers.[98]

2. Operations Support Systems (OSS)

46. Background. In the BOC ONA Reconsideration Order, we required that the following OSS capabilities be treated as basic ONA services: service order entry and status; trouble reporting and status; diagnostics, monitoring, testing and network reconfiguration; and traffic data collection.[99] The BOC ONA Amendment Order also required that BOC enhanced services operations have the same access to OSS services as the BOCs provide to other ESPs.[100] In the BOC ONA Amendment Reconsideration Order, we clarified that the OSS "same access" requirement applies to BSAs and BSEs that BOC enhanced service providers and independent ESPs order to provide enhanced services. We also directed the BOCs to work with ESPs through the IILC to develop methods for providing ESPs indirect access to OSS services for CNSs.[101]

---

[95] We do not find that the possibility for initial multiline business customer confusion is a sufficient reason to preclude the benefits customers derive from being informed of their CPNI rights.

[96] Notice, 7 FCC Rcd at 8668, para. 12.

[97] Because GTE may need additional time to implement password ID systems, we allow GTE two years from the release of this order to comply with the password ID requirements.

[98] See supra para. 26. We do not require that GTE detail its CPNI procedures in the ONA plan as long as GTE's procedures follow specific procedures approved for the BOCs and are consistent with our requirements. GTE must state in its plan when it is complying with CPNI requirements in a specific manner already approved for the BOCs.

[99] 5 FCC Rcd at 3087, para. 26. The BOC ONA Reconsideration Order stated that specific ESP requests for these OSS services must be evaluated according to the criteria established in the Phase I Order: expected market demand; their utility as perceived by ESPs; and their technical and cost feasibility of unbundling and providing these services. 104 FCC 2d at 1065, para. 217.

[100] 5 FCC Rcd at 3108, para. 43.

[101] BOC ONA Amendment Reconsideration Order, 8 FCC Rcd at 97, para. 1.

47. Positions of the Parties. GTE states that it is more than willing to satisfy ESP needs for OSS, but only if the ONA criteria for service provision are satisfied. Otherwise, GTE argues, application of BOC OSS access requirements is unnecessary and premature. GTE also states that it is developing an OSS Access Customer Gateway (ACG) for IXC customers, and that it will provide OSS access to non-IXCs and ESPs when sufficient demand exists to justify the introduction of such services. MCI opposes GTE's request to be excused from the Commission's OSS requirement, arguing that GTE never explains why ESPs should not have the same access to OSS functions that GTE's own enhanced services have.[102] GTE, however, believes that ESP demand for OSS access is very limited.[103] GSA believes that one year is not an unreasonably short period for GTE's ONA implementation, but that some flexibility may be warranted, especially with OSS.[104]

48. GTE states that the ACG system does not permit OSS access for services purchased from GTE's local tariffs, or satisfy the provision of access to OSS capabilities to ESPs as originally envisioned by the Commission. GTE contends that such a system would be far more complex and costly. GTE argues that it has a number of different OSS systems throughout the former seven GTE operating units and the Contel units, and that these multiple systems present a severe impediment to providing the access to OSS that ESPs might desire.[105] GTE states that it has the same form of access for order entry/status and trouble/status as the Commission mandates. GTE states that it is standard company practice for employees of GTE enhanced service operations to place orders for BSAs and BSEs in the same manner as independent ESPs.[106]

49. Discussion. In the BOC ONA Amendment Order, we stressed the importance of comparably efficient access for ESPs to the OSS functions offered by the BOCs. We have carefully balanced the importance of this equal access to OSS functions by ESPs with the

---

[102] MCI Comments at 7-9.

[103] GTE bases this on the following factors: the lack of demand for ONA services at the federal level; the lack of ESP requests to GTE for OSS; the lack of ESP interest expressed to GTE for OSS access in its primary market research studies; and GTE's observation that ESPs either are not willing to share their OSS access requirements, or are not capable of defining those requirements with any specificity. GTE Comments at 54.

[104] GSA Reply Comments at 7-8.

[105] GTE Comments at 55-56.

[106] Id. at 57-8.