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

FCC 95-283

In the Matter of )  
 )  
Administration of the ) **CC Docket No. 92-237**  
North American Numbering Plan )

**REPORT AND ORDER**

Adopted: July 13, 1995

Released: July 13, 1995

By the Commission:

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## **I. INTRODUCTION**

1. Effective administration of numbering resources is essential to the realization of the benefits of the public switched telephone network. Changes in the telecommunications industry lead us to reexamine existing numbering resource administration. In this Order, we lay the foundation for future number administration in the United States. We adopt a model for administration of numbering in which the North American Numbering Council will make recommendations to the Commission, develop policy, initially resolve disputes and guide the North American Numbering Plan Administrator. The North American Numbering Plan Administrator will process number assignment applications and maintain administrative number databases. The Commission will set broad numbering administration policy objectives and be the final arbiter of numbering disputes within the United States. The Commission will create the North American Numbering Council under the provisions of the Federal Advisory Committee Act.

2. We require that the North American Numbering Plan Administrator not be aligned with any particular telecommunications industry segment and request the North American Numbering Council to select the Administrator. Central office code administration will be centralized and handled by the new North American Numbering Plan Administrator. We also address funding issues and those related to creating a smooth transition to the new model. Finally, we intend to seek advice from the North American Numbering Council on such issues including, but not limited to, a plan to transfer responsibility for administering central office codes to the North American Numbering Plan Administrator; conservation of numbering resources, including examination of ways to ensure efficient use of number resources; and whether the NANC, after two years, should continue as a federal advisory committee. Additionally, we intend to seek on a continuing basis advice from the North American Numbering Council on steps the Commission can take to foster efficient and impartial number administration.

## **II. BACKGROUND**

### **A. General**

3. The North American Numbering Plan (NANP) is the basic numbering scheme that permits interoperable telecommunications service within the United States, Canada, Bermuda and most of the Caribbean.<sup>1</sup> The plan historically has been developed and administered by the wireline telephone industry, but increasing competition from new entrants

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<sup>1</sup> The NANP meets the telecommunications numbering needs of: Anguilla; Antigua and Barbuda; Commonwealth of the Bahamas; Barbados; Bermuda; British Virgin Islands; Canada; Cayman Islands; Dominican Republic; Grenada, Jamaica; Montserrat; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Trinidad and Tobago; Turks and Caicos and the United States (including Puerto Rico and the U.S. Virgin Islands).

into the telecommunications market have made continuation of that form of administration untenable.

4. Adequate telephone numbers, available through a uniform numbering plan, are essential to provide consumers efficient access to new telecommunications services and technologies and to support continued growth of an economy increasingly dependent upon those services and technologies.<sup>2</sup> The NANP erects a framework for assigning the telephone numbers upon which those services depend and for permitting international calls between its member countries to be completed without the need to dial international access codes and international country codes. The advantages of widespread access to such a seamless network are considerable. These numbers are a public resource, and are not the property of the carriers.<sup>3</sup> Access to numbering resources is critical to entities desiring to participate in the telecommunications industry. Numbers are the means by which businesses and consumers gain access to, and reap the benefits of, the public switched telephone network. These benefits cannot be fully realized, however, unless numbering resources of the NANP are administered in a fair and efficient manner that makes them available to all parties desiring to provide telecommunications services. To maximize these benefits requires continued international coordination of number administration among member countries of the NANP.

5. The NPRM examined what entities might perform the policy making, dispute resolution and applications processing functions associated with administering the NANP, but did not propose a specific organizational structure for overall administration of the NANP. Nonetheless, the NPRM drew tentative conclusions and sought comments about various aspects of an overall numbering administration structure. Taken together, however, the tentative conclusions suggest a structure under which the Commission would handle ultimate dispute resolution for U.S. numbering issues,<sup>4</sup> while the NANP Administrator would handle functions "customarily performed by Bellcore" and administration of central office (CO) codes, a task currently performed by local exchange companies.<sup>5</sup> The Commission tentatively concluded that the new NANP Administrator should be a single, non-government entity that is not closely identified with any particular industry segment.<sup>6</sup> The Commission also found it

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<sup>2</sup> Administration of the North American Numbering Plan, Notice of Proposed Rulemaking, 9 FCC Rcd 2068 (1994) (hereinafter NPRM) at para. 2.

<sup>3</sup> See Radio Common Carrier Service, Appendix B Commission Policy Statement, 59 Rad. Reg. 2d (P&F) 1275, 1284 (1986).

<sup>4</sup> NPRM at para. 25.

<sup>5</sup> Id. at para. 29.

<sup>6</sup> Id. at para. 18.

can and should impose fees to recover its costs of regulating numbering resources.<sup>7</sup> Regarding the timing of the transition to a new NANP structure, the Commission tentatively concluded that change to a new administrator should be deferred until implementation of interchangeable numbering plan area codes (INPAs) was completed.<sup>8</sup>

6. The NPRM discussed several other numbering issues related to personal communications services (PCS) numbering, local number portability, a uniform dialing plan, carrier identification codes (CICs) and interstate, intraLATA toll calls.<sup>9</sup> The Commission indicated that further action on PCS numbering related to the assignment of the service access code of 500 would not occur in this docket.<sup>10</sup> We also concluded that more study of the technical feasibility, implementation costs, and overall benefits of number portability was required and deferred consideration of number portability to a future proceeding.<sup>11</sup>

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<sup>7</sup> Id. at para. 38.

<sup>8</sup> Id. at para. 17. Interchangeable area codes are area codes that use a number other than "1" or "0" as the middle digit. They were introduced into the public switched telephone network in January 1995.

<sup>9</sup> In September 1991, the National Association of Regulatory Utility Commissioners (NARUC) petitioned the Commission to begin a broad inquiry into administration of the NANP. In October 1992, the Commission issued a Notice of Inquiry to "explore several long range issues related to administration of the NANP." Administration of the North American Numbering Plan, Notice of Inquiry, 7 FCC Rcd 6837 (1992) (NOI). The NOI consisted of two phases. Phase One focused on who should administer the NANP and how the administration might be improved. It also briefly discussed PCS numbering and local number portability. Phase Two focused on Carrier Identification Codes.

<sup>10</sup> The NPRM noted that the administrator of NANP had announced that it would assign 500 service access code for PCS and within that code would proceed to assign NXX codes to certain companies. In a separate action, the Common Carrier Bureau directed a delay in the proposed assignment of 500 numbers. See NPRM at para. 40. By Order adopted November 30, 1994, the Commission granted petitions of twelve local exchange companies for waiver of existing Part 69 access charge rules to permit them to tariff charges for 500 numbers. The Ameritech Operating Companies, Bell Atlantic Telephone Companies, BellSouth Telecommunications, Inc., Cincinnati Bell Telephone Company, GTE Services Corporation, The NYNEX Telephone Companies, Pacific Bell, Rochester Telephone Corp., Southern New England Telephone Company, Southwestern Bell Telephone Company, The United Telephone and Central Telephone Companies, and US West Communications Petitions for Waiver of Sections 69.4(b) and 69.106 of Part 69 of the Commission's Rules, 9 FCC Rcd 7873 (1994).

<sup>11</sup> NPRM at para. 42. On July 13, 1995, the Commission adopted a notice of proposed rulemaking on telephone number portability. Telephone Number Portability, Notice of Proposed Rulemaking, -- FCC Rcd -- (1995).

7. This Report and Order resolves issues related to the future administration of the NANP. Issues related to a uniform dialing plan, carrier identification codes and interstate, intraLATA toll calls will be resolved in separate Commission actions.

#### **B. Evolution of the North American Numbering Plan**

8. In the early 1940s, American Telephone and Telegraph (AT&T) began to develop a numbering plan to insure that the expansion of toll (or "long distance") dialing would be guided by "principles in harmony with the ultimate incorporation of all networks into an integrated network of nation-wide scope".<sup>12</sup> The plan involved dividing the United States and Canada into eighty-three "zones", each of them identified by three digits. Within each "zone", a central office was represented by another three digit code.<sup>13</sup> These "zones" are now referred to as Numbering Plan Areas (NPAs), and the three digits representing these areas are referred to either as NPA codes or area codes. There are currently more than 175 "zones". The three digits representing central offices are now called central office (CO) codes or NNX codes.<sup>14</sup>

9. Telephone numbers within the NANP may be represented as NPA-NNX-XXXX.<sup>15</sup> NPAs have historically been of the format: N 0/1 X, and CO codes, the second three digits, in the form NNX. Thus, a telephone number representation based entirely on the digits that may be in each position was given by: N 0/1 X-NNX-XXXX, where N may be any number from 2 to 9, 0/1 is either 0 or 1, and X may be any number from 0 to 9. In January 1995, because there were no more available NPA codes of the N 0/1 X format,<sup>16</sup> the industry introduced interchangeable NPAs (INPAs) of the format NXX. CO codes are typically of the form NNX. However, when in a particular NPA, if NNX possibilities for CO codes have been exhausted, CO codes of the form NXX may also be used to avoid the

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<sup>12</sup> Bell Laboratories Record, F.F. Shipley, Nation-Wide Dialing, p. 368, October 1945.

<sup>13</sup> Bell Laboratories Record, Nation-Wide System for Toll Line Dialing, p. 29, January 1949. All wireline telephones are connected to central offices, through lines that the switch identifies by the last four numbers of a seven-digit telephone number. The plan thus establishes a unique address number for every wireline telephone served within the plan area.

<sup>14</sup> Central offices may now be represented by more than one central office code.

<sup>15</sup> The International Telecommunications Union - Telecommunications Standardization Sector (ITU-T) develops international numbering standards and assigns country codes. Numbers within the NANP are formatted in a manner consistent with ITU-T standards. Previously, the ITU-T divided the World into nine World Zones in which the present countries of the NANP made up World Zone 1 (WZ1). ITU no longer uses World Zone distinctions.

<sup>16</sup> The telecommunications industry uses the term "exhaust" to describe such events.

need for assigning another NPA for the area. Allowing CO codes to be of the form NXX helps to delay exhaustion of NPA codes. Thus, the current telephone number format within the NANP is given by: NXX - NXX - XXXX.

10. For over forty years, AT&T administered the NANP. In 1984, at divestiture, the Plan of Reorganization established Bellcore as the NANP Administrator.<sup>17</sup> In 1993, Bellcore advised the Commission that it wished to relinquish this responsibility pending industry and/or regulatory resolution of the issue.<sup>18</sup>

11. At present, Bellcore administers the NANP for all member countries. As administrator, Bellcore's primary function is to assign numbers, pursuant to industry developed guidelines, to parties requesting them. It also maintains numbering databases, initiates number conservation and reclamation efforts, advises industry and regulatory agencies on numbering issues and serves as a subject matter expert on numbering issues (including providing consultation to the Commission and representing the United States in various international numbering committees).

12. Bellcore administers most numbering resources within the United States. Exceptions include 800 numbers and central office codes.<sup>19</sup> Database Services Management Incorporated (DSMI), a subsidiary of Bellcore created following the introduction of 800 number portability, administers 800/SMS access, while Lockheed Corporation provides user support for assignment of 800 numbers. Additionally, within the United States, twelve regional CO code administrators handle CO code assignments. The dominant local exchange carrier serves as the CO code administrator.<sup>20</sup> Currently, Bellcore Client Companies<sup>21</sup> fund the operation of Bellcore as the NANP Administrator.

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<sup>17</sup> The amended Plan of Organization was approved by the United States District Court for the District of Columbia in United States v. Western Electric Co., 569 F. Supp. 1057 (D.D.C. 1983).

<sup>18</sup> Letter from G. Heilmeier, President and CEO, Bellcore to the Commission (Aug. 19, 1993).

<sup>19</sup> Bellcore administers NPA codes, N11 codes for national use, CICs, 500-NXX codes, 900-NXX codes, 456-NXX codes, 800-NXX codes (Caribbean only), Service Access Codes (N00), 809-NXX codes, 555 line numbers, Vertical Service Codes, SS7 network codes (under contract with Committee T1), MBG identifiers (under contract with Committee T1) and ANI II digits.

<sup>20</sup> The CO code administrators within the United States are: Alascom, Ameritech, Bell Atlantic, BellSouth, Cincinnati Bell, GTE (for 813 area code), GTE (for 808 area code), NYNEX, Pacific Bell, Southern New England Telephone, SBC, and US WEST.

<sup>21</sup> Ameritech, Bell Atlantic, BellSouth, NYNEX, Pacific Bell, SBC and US WEST.

13. Overall administration of numbering is critical to the effective and reliable operation of telecommunications within the United States. The NANP administrator plays a critical role in the successful management of numbering. The Industry Numbering Committee (INC)<sup>22</sup> and its workshops also play an important role, particularly in developing numbering policy, establishing number assignment guidelines and resolving technical and operations issues related to numbering. During the period between March 1993 and May 1994, Bellcore, as NANP Administrator, convened the Future of Numbering Forum (FNF) to address issues related to the future of numbering within North America. The FNF was a valuable forum, which brought together representatives of industry and government from the United States, Canada and the Caribbean to develop a long term numbering plan for North America. The FNF suspended their activity following the release of the NPRM. Many commenters in this proceeding referenced FNF agreements and discussions in their comments. Prior to the establishment of the Industry Numbering Committee in 1993, numbering issues were addressed by many different forums and committees.

14. For several years, the existing structure for administration of the NANP was effective. This effectiveness may be attributed to industry cooperation in resolving numbering issues and to Bellcore's expertise in serving as NANP Administrator. Bellcore intends to relinquish its responsibilities as administrator, and changes in the structure of the telecommunications market make it appropriate to shift administrative responsibilities for all domestic numbering matters to a neutral entity. Increasingly, companies needing numbering resources, such as PCS providers, are competitors for market share of the carriers that directly and indirectly controlled distribution of numbering resources. In adjusting to this change, however, it would not be prudent to abandon the numbering infrastructure currently in place that has served this country and the other nations in the NANP so well. In moving to assure that numbering administration is impartial, we seek to retain those facets of the existing structure that are unaffected by the recent changes to the telecommunications market.

### III. FEDERAL POLICY OBJECTIVES FOR NUMBERING

15. In the Ameritech Order, the Commission stated the broad policy objectives it believes should and could be achieved through judicious administration of the NANP:

\* Administration of the plan must seek to facilitate entry into the communications marketplace by making numbering resources available on an efficient, timely basis to communications services providers.

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<sup>22</sup> The INC is a standing committee of the Industry Carriers Compatibility Forum (ICCF), which in turn exists under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). ATIS sponsors a number of industry committees and forums, such as CLC, ICCF and INC. The CLC seeks to resolve, using consensus procedures, equal access and network interconnection issues arising on a communications industry-wide basis.

- \* Administration of the NANP should not unduly favor or disadvantage any particular industry segment or group of consumers.
- \* Administration of the NANP should not unduly favor one technology over another. The NANP should be largely technology neutral.<sup>23</sup>

We now affirm our commitment to these objectives, and to the following additional objectives:

- \* Administration of the NANP and the dialing plan should give consumers easy access to the public switched telephone network.
- \* Administration of NANP should ensure that the interests of all NANP member countries are addressed fairly and efficiently, and foster continued integration of the NANP across NANP member countries.
- \* United States numbering policy should be developed in a manner that fosters international numbering consistency and interoperability.

#### **IV. DISCUSSION**

##### **A. NUMBERING ADMINISTRATION MODELS**

16. **Background.** The NPRM recognized that overall administration of the NANP involves four separate, but related functions: policy making, dispute resolution, maintenance of number databases and processing applications for numbers.<sup>24</sup> The NPRM examined what entities might perform the policy making, dispute resolution and applications processing functions. The NPRM did not specify the types of databases to which it referred and did not explicitly address who should maintain the different types of number databases.<sup>25</sup> The NPRM

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<sup>23</sup> See Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, 10 FCC Rcd 4596 (1995) at para. 18 (recon pending).

<sup>24</sup> NPRM at para. 7.

<sup>25</sup> There are two basic types of number databases: administrative databases and network support databases. Administrative databases list information such as the number, to whom the number was assigned, and the date of that assignment. Network support databases contain numbers, what network elements they are associated with and other information. Network support databases are used by network providers to update routing and billing information in their switches. The Routing DataBase System (RDBS) and Bellcore Rating Input Database System (BRIDS) are the primary network support databases. RDBS contains a complete description of all LEC networks in World Zone 1 (except, currently Canada). This provides information for message routing and common channel signaling call setup routing. BRIDS

drew tentative conclusions about various aspects of a structure and sought comments on other elements of an overall numbering administration structure. The tentative conclusions suggest a structure in which the Commission would, if necessary, handle ultimate dispute resolution of United States numbering issues<sup>26</sup> with a NANP Administrator that would perform functions "customarily performed by Bellcore" and administration of CO codes.<sup>27</sup> Additionally, the NPRM sought comment on having a Policy Board consisting of industry and government representatives develop policy and at least initially resolve numbering disputes.<sup>28</sup> The NPRM recognized the importance of international coordination to the continued success of the NANP.<sup>29</sup>

17. Positions of the Parties. All parties support changes to the existing structure for overall NANP administration. Many parties suggest that the existing structure should not be totally revised. For example, BellSouth indicates that existing industry fora have had significant success in the development of industry consensus on many important numbering issues.<sup>30</sup> NECA adds that the Commission should continue to rely on existing industry-sponsored groups to address numbering issues to the extent possible.<sup>31</sup> Instead, parties indicate that aspects of the existing structure are effective, but note that there is opportunity to improve the structure. Parties contend that access to number resources is critical and that increased telecommunications competition demands changes to the current structure that is dominated by the LECs. In particular, AT&T observes that increasingly, customer and carrier access to, use of, and control over numbering resources could significantly affect the availability of competitive services to customers and the ability of service providers to

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contains rating data for NANP member countries and Mexico and is used for billing purposes. Bellcore, as NANP Administrator, maintains administrative databases, while the Traffic Routing Administration Group of Bellcore, which is separate from the NANP Administrator, maintains the network support databases. 800 Numbers are assigned separately through the SMS database, a type of network support database.

<sup>26</sup> NPRM at para. 25.

<sup>27</sup> Id. at para. 29.

<sup>28</sup> Id. at para. 24-25.

<sup>29</sup> Id. at para. 10.

<sup>30</sup> BellSouth Comments at 6-7; see also Ameritech Comments at 8.

<sup>31</sup> NECA Comments at 13. See also Pacific Comments at 3; TCG Comments at 5-6; Rock Hill Comments at 2 (where possible, the Commission should utilize existing telecommunications industry organizations, structures and forums as building blocks to fashion the new NANP).

compete.<sup>32</sup> APC notes that wireless service providers need access to two crucial limited resources -- spectrum and numbers.<sup>33</sup>

18. In general, parties state that whatever the new NANP structure is and whoever performs the number administration responsibilities, administration of numbering should be fair and impartial.<sup>34</sup> Wireless service providers, competitive access providers (CAPs) and other relative new comers to telecommunications generally comment that the current NANP administrative structure supports discriminatory actions and does not afford newer entrants the opportunity for fair competition. Telaccess notes that numbering today is "light years away" from promoting economic growth and that without changes the Commission will see discriminatory conduct repeating itself in the future, endangering Commission goals of promoting new services and economic growth.<sup>35</sup> APCC states that its members are concerned that bias in number assignment practices may prevent them from being treated fairly in the assignment of numbers.<sup>36</sup> McCaw adds that control of NANP administration by Bellcore and the Bell Operating Companies (BOCs) has raised serious competitive issues and given short shrift to the needs and concerns of wireless service providers.<sup>37</sup> Additionally, BellSouth observes that the perception that Bellcore's affiliation with the regional Bell Operating Companies prevented it from performing its functions in an impartial manner impeded Bellcore's performance of its NANP Administrator responsibilities.<sup>38</sup> Finally, several parties advocate that a structure should be established, such that overall number administration is done in a pro-competitive manner.<sup>39</sup>

19. Parties note other deficiencies in the current structure for NANP administration. Allnet contends that the outcome of numbering plan decisions should not depend upon which carriers can afford to send more employees to meetings at expensive locations throughout the

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<sup>32</sup> AT&T Comments at 2.

<sup>33</sup> APC Comments at 2.

<sup>34</sup> See, e.g., Comptel Comments at 2; CTIA Comments at 5; MCI comments at 4 n.8 (there is a critical need for numbering matters to be handled in a fair and equitable manner, with number administration performed in an environment free from the prejudicial influences that exist in the current structure).

<sup>35</sup> Telaccess Comments at 1.

<sup>36</sup> APCC Comments at 3.

<sup>37</sup> McCaw Comments at 1.

<sup>38</sup> BellSouth Comments at 2.

<sup>39</sup> See, e.g., ALTS Comments at 2.

United States -- "where meetings of the ATIS are typically held."<sup>40</sup> NATA notes that the Commission should take steps to ensure that numbering decisions and information about those decisions are accessible and adequately publicized.<sup>41</sup> Lastly, several parties indicate that the current process for resolving number issues is too slow and must be accelerated.<sup>42</sup>

20. With respect to an integrated approach to international number administration within the NANP member countries, nearly all parties addressing this aspect of the structure encourage maintaining and fostering an integrated approach.<sup>43</sup> US WEST notes that the advantages of the NANP -- widespread access to a seamless network serving important trading partners -- are considerable and that the continued viability of the NANP as an integrated numbering plan would be put in serious jeopardy if the United States were to begin administering only a portion of the NANP.<sup>44</sup> Similarly, Stentor submits that the benefits of participating in the NANP are significant for both Canadian consumers and industry and continues to support the operation of the Canadian telecommunications industry as an integral part of the NANP.<sup>45</sup>

21. Many parties suggest specific structures for overall number administration. These structures have many similarities and may be categorized into three basic structures.<sup>46</sup> Each of these structures seeks to maintain an integrated approach to overall number

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<sup>40</sup> Allnet Comments at 7.

<sup>41</sup> NATA Comments at 6.

<sup>42</sup> See, e.g., NATA Comments at 4-5.

<sup>43</sup> See, e.g., GTE Comments at 3. ("There is no dispute that the benefits and efficiencies generated by the NANP are the envy of other non-World Zone 1 [WZ-1] nations".) contra, CTIA Ex Parte presentation of May 24, 1995, note 45 and para. 29, infra.

<sup>44</sup> US WEST Comments at 1-2.

<sup>45</sup> Stentor Comments at 1.

<sup>46</sup> There are three proposals that do not fall within these three basic models. CTIA advocates creation of a United States Numbering Association that would administer the United States numbering resources. See CTIA Ex Parte presentation of May 24, 1995. This approach differs from the three models discussed above, in that it is the only one that explicitly suggests the creation of a separate United States number administrator. TSTT suggests a model that consists of a NANP Administrator with a board of directors and no policy board or oversight committee. See TSTT Reply at 2-5. Finally, TCG suggests a model that would have an industry numbering committee establish numbering guidelines for the NANP Administrator and policy decisions and dispute resolution would be handled by the Commission using declaratory rulings. See TCG Comments at 5-8.

administration across NANP member countries.

22. **The Regulatory Model.** The first model suggested by only a few parties, is one under which the Commission would handle all four number administration functions: policy making, dispute resolution, maintenance of number databases and processing applications for numbers. The Commission would be the NANP Administrator.<sup>47</sup> Parties suggesting this structure seek strong Commission control and leadership on numbering issues. They contend that numbering matters are the responsibility of the Commission<sup>48</sup> and that the Commission must assume all numbering functions because industry fora cannot fairly address numbering issues.<sup>49</sup>

23. **The Hybrid Model.** The second model suggested by several parties,<sup>50</sup> would have an industry policy board or oversight committee develop policy and at least initially resolve disputes, while the NANP Administrator would maintain administrative number databases and process applications for numbers. In this structure, both entities would report directly to the Commission and other NANP member country regulatory bodies, who would ultimately resolve disputes and set broad numbering objectives and policy for their countries. Parties suggesting this approach find there is value in having an industry policy board or oversight committee develop numbering policy and work numbering issues, but also desire that regulatory bodies like the Commission play an active role in directing the NANP Administrator to ensure that number assignments are made impartially.<sup>51</sup>

24. **The Industry Model.** The third model supported by the majority of parties,<sup>52</sup>

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<sup>47</sup> See Allnet Comments at 7-8; NCS Comments at 4-6 (suggesting that the Commission serve as NANP Administrator and would be the ultimate policy maker, subject to input from an industry policy board); Telaccess Comments at 2-3.

<sup>48</sup> See, e.g., Allnet Comments at 8; NCS Comments at 5.

<sup>49</sup> See Telaccess Comments at 7.

<sup>50</sup> See Ad Hoc Comments at 4-6; APCC Comments at 3-4; BellSouth Comments at 1-10; Dean Brothers Comments at 2-4; McCaw Comments at 2-9; MFS Comments at 3-6; NTCA Reply at 1-4.

<sup>51</sup> See, e.g., APCC Comments at 2-3.

<sup>52</sup> See, e.g., AirTouch Comments at 2-5; AMTA Comments at 4-7; APC Comments at 2-4; Ameritech Comments at 8; ALTS Comments at 2-5; AT&T Comments at 8-10; Bell Atlantic Comments at 4-5; CSCN Comments at 1-2; NYDPS Comments at 1-2; Nextel Comments at 3-8; NYNEX Comments at 4-8; OPASTCO Comments at 3-4; PCIA Comments at 3-7; SBC Comments at 2-6; Sprint Comments at 2-8; Telco Planning at 2; USTA Comments at 3-6; US WEST Comments at 4-6; Vanguard Comments at 3-12.

resembles the second structure in that an industry policy board or oversight committee would develop policy and, at least, initially resolve disputes, while the NANP Administrator would maintain administrative number databases and process applications for numbers. It differs from the second structure in that the NANP Administrator would report to the policy board or oversight committee instead of reporting directly to regulatory bodies as suggested in the second structure. Thus, supporters of this model appear more confident than those parties suggesting the second model that industry can manage an impartial NANP Administrator. In this case, the industry policy board or oversight committee would still report to the Commission and other NANP member country regulatory bodies, which would resolve disputes the board could not and set broad numbering objectives and policy. Like parties suggesting the hybrid model, these parties find significant advantages to having an industry numbering policy board or oversight committee develop numbering policy and resolve issues. They believe, however, the industry is better equipped and positioned to oversee the NANP Administrator for its day-to-day operation than are regulatory bodies. They believe this structure addresses industry concerns about the current structure, while retaining positive aspects of the current structure, such as industry synergy in resolving difficult numbering issues.

25. Discussion. After reviewing the record, we conclude that the industry model will best serve the public interest. It will permit fair and efficient overall administration of numbering resources, foster an integrated approach to numbering administration across NANP member countries, and enable this Commission and regulatory bodies of other nations to ensure that domestic numbering administration is effective, while leveraging the expertise and innovation of industry.

26. We agree with those parties advocating the regulatory model that domestic numbering administration is within the authority of the Commission. We disagree, however, with the premise that that authority compels the Commission to serve as the NANP administrator. Our responsibilities with respect to numbering originate in Sections 1, 7, and 201 of the Communications Act. The first two sections direct this Commission to make available rapid, efficient and nation-wide communications<sup>53</sup> and to encourage the provision of new technologies and services.<sup>54</sup> Section 201 requires common carriers engaged in interstate or foreign communications to provide communications service upon reasonable request when the Commission finds such action in the public interest.<sup>55</sup> They also flow from Section 202, which requires that charges, practices, classifications, regulations, facilities, and services of common carriers not be unreasonably discriminatory.<sup>56</sup> These responsibilities do not require

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<sup>53</sup> 47 U.S.C. § 151 (1995).

<sup>54</sup> Id. at § 157.

<sup>55</sup> Id. at § 201.

<sup>56</sup> Id. at § 202.

that the Commission serve as NANP administrator, only that the Commission establish and enforce number administration policies consistent with the requirements of those sections. Towards that end, we do not believe that adoption of the regulatory model will best achieve these requirements. We agree with commenters suggesting that industry in the past has successfully resolved many numbering issues and fostered the introduction of new services. On the basis of the record before us, we find no justification to change significantly this aspect of the current model for administration of the NANP. We agree with commenters who note the importance and value of an integrated NANP and believe that the Commission serving as NANP administrator could jeopardize the continued viability of an integrated numbering plan. Nonetheless, if experience shows that the model we now adopt does not permit this Commission to meet its responsibilities under the Communications Act, we may then reexamine whether the Commission should be the NANP Administrator, at least for the United States portion of the NANP.

27. The hybrid model would have both the industry policy board or oversight committee and the NANP Administrator reporting directly to the Commission. We agree with proponents of that model that the Commission must take an active role in overseeing administration of limited numbering resources. We also share these parties' concerns regarding industry's ability to administer number resources fairly and in a competitively neutral manner. These concerns, however, do not lead us to conclude that a NANP Administrator must report directly to the Commission to ensure it assigns numbers fairly. We conclude that the Commission can monitor industry oversight of the administrator through Commission participation in, and direction of an advisory board, as detailed below. Under this approach, any party aggrieved by the assignment practices involving United States numbering resources of the NANP Administrator may petition the Commission for relief. Additionally, recognizing that eighteen countries share a strong interest in the successful administration of the NANP, we believe the NANP Administrator will be able to function more effectively and efficiently by reporting to a single entity - a body with broad representation from industry, consumers, state regulators and other NANP member countries. We therefore encourage other member countries to support the model adopted by this Commission, so that the NANP Administrator may look to a single industry body for its direction. Thus, while the model we adopt differs somewhat from the second model, we believe nonetheless it will ensure that numbering policy development and administration is conducted fairly and in a competitively neutral manner.

28. In adopting the industry model, we are mindful that the United States is not the only country that relies upon the NANP for its numbering needs or that has policy concerns affecting the NANP's future administration. We recognize that each of the NANP members is a sovereign country that has responsibilities to its citizens to ensure the efficient development of its telephone network. For this reason we solicited the views of those countries on the issues in this proceeding. We note that CSCN and Stentor have indicated their support of an industry-led NANP administration. As a result, we believe that the approach we adopt here, which preserves the benefits of a single, industry-led NANP administration, will benefit not only the United States but all NANP members. In this regard,

we note that the industry policy board that we describe below will provide a forum in which the telephone company operators from all NANP countries can present their views and concerns. The governments of other NANP member countries can bring their concerns to the policy board or they can bring them to the Commission, either directly or through the Department of State.

29. For the above reasons we find it unnecessary to adopt the model proposed by CTIA that would create a United States Numbering Association with authority to administer numbers solely for the United States.<sup>57</sup> While we recognize that the other NANP member countries are sovereign, we do not believe that that fact requires us to separate U.S. numbering or to require those countries to set up their own parallel numbering associations. The industry policy board that we adopt here fully recognizes the sovereignty of each NANP member country, while, at the same time, providing a forum for ongoing dialog between their telecom operators and their regulatory authorities. Indeed, because the board is subject to the Federal Advisory Committee Act, the new approach will provide even more protection for other countries' views than the current method of administration. Multiple national administrators involve a great deal of duplicative expense and complicate the administration of an integrated numbering plan like the NANP. The plan we adopt here will keep the NANP integrated and will ensure that numbering is conducted fairly and in a competitively neutral manner.

30. The TSTT model consists of a NANP Administrator with a board of directors. We do not adopt this model, because we believe that it is important for a policy board or oversight committee to exist to develop and coordinate numbering policy. It is not clear how numbering issues would be resolved in the TSTT model. The TCG model consists of an industry numbering committee providing guidelines for a NANP administrator, with the Commission making declaratory rulings. We do not adopt this model, because we believe it is important for the Commission to be more actively involved in numbering and that there be a policy board or oversight committee to ensure fair number administration.

31. In adopting the industry model, which calls for the NANP Administrator reporting to an advisory committee, we agree with those suggesting that despite its flaws, the current model for addressing numbering issues and policy development has enjoyed significant success. For example, since this docket was opened the industry has consolidated numbering efforts into one primary committee - the Industry Numbering Committee (INC).<sup>58</sup> This committee has successfully resolved many numbering issues without Commission or other

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<sup>57</sup> CTIA Ex Parte presentation of May 24, 1995. CTIA notes that it would be best if Canada, the United States and other countries work together in international numbering strategies in lieu of the United States attempting to assume and/or assert control over another country's domain.

<sup>58</sup> See note 22, infra.

NANP member country regulatory proceedings or actions. In many respects, INC today directs the efforts of NANP Administrator. The major difficulty with the current NANP Administrator is its association with the BOCs and the potential conflict of interest that creates. We believe this problem can be addressed through industry selection of a new NANP Administrator. We seek to preserve the positive facets of the current model and believe that the industry model we now adopt best achieves that goal.

32. We find that the industry model is also the one best able to assure continued integration of the NANP and to facilitate other North American countries joining the NANP, subject to industry and regulatory body approval. We believe this model also enables the Commission to ensure that this country's numbering policy is fair and competitively neutral. We agree with those suggesting that an integrated numbering plan benefits industry and consumers of all NANP member countries and therefore it is in the public interest for the Commission to support continued NANP integration across NANP member countries. Of the proposed models, we believe the one we adopt best achieves NANP integration, because it encourages NANP member countries to participate in the formation of numbering policy. We are hopeful that NANP member countries will actively participate in the advisory committee charged with number policy development and initial dispute resolution.

33. For all of these reasons we adopt the industry model for overall administration of the NANP. This model calls for a structure that has an industry policy board or oversight committee that acts as policy maker and initial site of dispute resolution, with a NANP Administrator that maintains administrative number databases and the processes applications for number resources. The NANP Administrator reports directly to the policy board or oversight committee. The industry policy board or oversight committee reports to the Commission and other NANP member countries' regulatory bodies, who would bear ultimate responsibility for dispute resolution and set broad objectives and policy governing administration and use of numbering resources within their countries. In the following three sections, we describe in more detail the structure of and roles to be played by the various entities.

## **B. INDUSTRY AND GOVERNMENT ROLES UNDER THE NEW MODEL**

### **1. The Commission**

34. **Background.** In the NPRM, we determined that this Commission may issue orders and otherwise regulate numbers and their administration.<sup>59</sup> The NPRM observed that many responses to the NOI urged the Commission to increase its role in overall number

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<sup>59</sup> NPRM at para. 8.

administration.<sup>60</sup> In the Ameritech Order, the Commission recognized that state regulators clearly have legitimate interests in the administration of the NANP, while indicating that where resolution of a NANP issue concerns interstate matters the Commission will continue to exercise our regulatory authority.<sup>61</sup>

35. Positions of Parties. Commenters agree that the Commission has jurisdiction over numbering.<sup>62</sup> Most parties request that the Commission assume a more active role in numbering matters. Allnet contends that not choosing the Commission as administrator, "simply avoids the obvious solution of having the FCC do what it is responsible for doing."<sup>63</sup> Others suggest that the Commission should set clear numbering policy objectives<sup>64</sup> and take a more active role in policy development. NECA comments that in a competitive environment the Commission will be required to assume a more active role in regulating numbering than it has in the past.<sup>65</sup>

36. Parties suggest several approaches to resolve numbering issues and disputes including consensus procedures, arbitration,<sup>66</sup> mediation<sup>67</sup> alternative dispute resolution,<sup>68</sup> the use of a Commission Administrative Law Judge,<sup>69</sup> negotiated rulemakings procedures,<sup>70</sup> expedited paper proceedings by the Commission<sup>71</sup> and closely supervised settlement

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<sup>60</sup> Id. at para. 22.

<sup>61</sup> See Ameritech Order at para. 14.

<sup>62</sup> See TCG Comments at 2; NCS Comments at 3; Allnet Comments at 3; BellSouth Comments at 7.

<sup>63</sup> Allnet Comments at 7.

<sup>64</sup> See, e.g., NYNEX Reply at 3.

<sup>65</sup> NECA Comments at 13-14.

<sup>66</sup> See, e.g., MCI Reply at 7.

<sup>67</sup> See, e.g., BellSouth Comments at 9.

<sup>68</sup> See, e.g., AT&T Comments at 11.

<sup>69</sup> TCG Comments at 8.

<sup>70</sup> McCaw Reply at 10.

<sup>71</sup> See, e.g., McCaw Comments at 5.

conferences by the Commission.<sup>72</sup> Most parties contend that at least initially a consensus process should be used by an industry group to resolve issues and that only if that process fails to bring timely resolution of an issue should one of the other approaches listed above be invoked.<sup>73</sup> USTA comments that the consensus process remains a very effective way to ensure that all participants are heard and that the existing due process mechanisms, and ultimate right of any participant to petition directly to the Commission make the development of new processes unnecessary.<sup>74</sup>

37. Except for consensus procedures listed above, parties differ on when and by whom the different dispute resolution techniques should be invoked. Some parties advocate that an industry oversight committee or policy board might invoke one of the above techniques. Others contend that the Commission, after a fixed time period, should be the body to act. Several parties warn that use of one of the above dispute resolution mechanisms may undermine the consensus process.<sup>75</sup> In particular, Bell Atlantic notes that any attempt to force premature decisions through arbitration or mediation would work against consensus.<sup>76</sup> Most parties agree that when an issue originates within an industry numbering forum, such as the INC, a time period should be set for resolution.<sup>77</sup> With respect to establishing a given time period, some parties support creation of a flexible "deadline" for issue and dispute resolution,<sup>78</sup> while others support a strict time period for that would apply to any dispute.<sup>79</sup>

38. Parties agree that the Commission should be the final arbiter of all disputes involving United States numbering issues.<sup>80</sup> Specifically, NTCA notes that the Commission

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<sup>72</sup> Id.

<sup>73</sup> See, e.g., MCI Reply at 6.

<sup>74</sup> USTA Comments at 5. See also ATIS Reply at 9 (there is a long and substantial record of successes which supports continued use of the consensus process as a viable means by which to reach resolutions).

<sup>75</sup> See, e.g., GTE Reply at 5-6; USTA Reply at 4.

<sup>76</sup> Bell Atlantic Comments at 5.

<sup>77</sup> See, e.g., NYNEX Reply at 3; APCC Comments at 3; Pacific Comments at 5; Sprint Reply at 6 n.7.

<sup>78</sup> SBC Comments at 4. See also ATIS Reply at 9 (It is important to differentiate between policy issues, which take more time and administrative issues which are quick.)

<sup>79</sup> APCC Comments at 3.

<sup>80</sup> See, e.g., NCS Comments at 5; NTCA Reply at 3; NYNEX Reply at 3.

will need to reserve the ultimate authority to settle the domestic numbering disputes, which are expected to occur as the competition for the limited numbering resources needed to provide competitive wireline services, as well as existing and new wireless services, grows.<sup>81</sup>

39. Discussion. The Commission will continue to set broad numbering policy objectives and be the final arbiter of all disputes involving United States numbering issues. We conclude that initially the advisory committee should seek to resolve disputes through consensus. Six months from the date an issue is to be brought to the committee for resolution, the committee must report to the Commission on that issue with a recommendation for how the issue should continue to be addressed. We do not limit the mechanisms for resolving issues and disputes brought before the Commission.<sup>82</sup>

## 2. North American Numbering Council

40. Background. The NPRM sought comment on whether we should establish a new policy board to assist regulators in developing and coordinating numbering policy under the NANP. The NPRM indicated that this board, subject to regulatory oversight, might also guide the new administrator and foster dispute resolution. The NPRM sought comment on the extent, if any, to which the Federal Advisory Committee Act (FACA)<sup>83</sup> would apply to such a board.<sup>84</sup>

41. Position of the Parties. Most parties do not address the applicability of the Federal Advisory Committee Act to an oversight committee or policy board. MCI does not believe its recommended oversight committee, which shares many characteristics with the committee we now create, raises difficult questions under the FACA even though the Committee would be established and used by the Commission to obtain policy advice on numbering matters.<sup>85</sup> In support of this position, MCI notes that the Supreme Court has refused to read literally the language of FACA, which would extend the Act's requirements to any group from which an agency might seek advice.<sup>86</sup> Additionally, PCIA believes that

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<sup>81</sup> NTCA Reply at 3.

<sup>82</sup> See, e.g., Use of Alternate Dispute Resolution Procedures in Commission Proceedings and Proceedings in which the Commission is a Party, 6 FCC Rcd. 5669 (1991) (concluding that as a matter of policy, the Commission encourages the use of ADR techniques where it will appear that the public interest will be served).

<sup>83</sup> Federal Advisory Committee Act, 5 U.S.C., App. (1988) (FACA).

<sup>84</sup> NPRM at para. 25.

<sup>85</sup> MCI Comments at 12 n.22

<sup>86</sup> Id., citing Public Citizen v. U.S. Dep't. of Justice, 491 U.S. 440, 452 (1989).

FACA would not apply to a policy board as proposed in the NPRM.<sup>87</sup> NTCA comments that use of an advisory committee under the FACA procedures will ensure impartiality and balanced participation in the process of developing numbering policy, but should not restrict industry's ability to make NANP administration decisions that are more appropriately handled by industry.<sup>88</sup>

42. Discussion. The industry model that we have adopted calls for the creation of a policy board that would act as policy maker and initial site for resolution of disputes relating to administration of the NANP. We conclude that creating this board would require compliance with FACA. We intend to undertake the procedural steps set forth in FACA to create the "North American Numbering Council" (NANC) as a Federal Advisory Committee for the purpose of addressing and advising the Commission on policy matters relating to administration of the NANP, some of which are discussed below and others of which may arise in the future.

43. NANC is an Essential Component of the Industry Model. We agree with those asserting that the Commission must assume a more active role in numbering policy development and issue resolution than it has in the past. Access to numbering resources is essential to entities desiring to participate in the telecommunications industry. The Industry Numbering Committee has achieved numerous successes in resolving numbering issues. These successes may be attributed, we believe, to the dedication and technical and operational expertise that industry members bring to bear on complex numbering issues. We find, however, that the current mechanisms for resolving issues and disputes may not always lead to timely resolution or may not afford all parties reasonable access to dispute resolution mechanisms.

44. We agree with the many parties who recognize a need for an oversight committee like the NANC. While we understand the concerns of parties who contend that an oversight committee, particularly a government oversight committee or policy board, will simply slow policy development and issue resolution, we believe that the measures detailed below address these concerns.

45. The strength of the current industry approach to resolving issues is the synergy it brings to bear on an issue through industry technical and operational expertise. This expertise is based on day-to-day experiences that this Commission simply lacks. We must continue to capture this synergy. Under the current model, however, some issues have been resolved too slowly and some resolutions have hindered competition. As competition in telecommunications grows and new competitors participate with dominant incumbents in

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<sup>87</sup> PCIA Comments at 4.

<sup>88</sup> NTCA Reply at 2-3. See also, NCS Comments at 6 (FACA requirements would apply to a policy board of service providers, government agencies and regulators).

industry fora, we believe that it will become increasingly difficult, if not impossible, for current industry fora to resolve crucial numbering issues. We also conclude that the Commission needs consensus advice from industry on numbering issues to enable it to make timely, informed decisions on numbering policy issues. For all of these reasons, and given the vital importance of limited numbering resources to telecommunications, we find that it is essential that we create the NANC as a federal advisory committee.

46. The purpose of the NANC will be to provide to the Commission advice and recommendations reached through consensus to foster efficient and impartial number administration as telecommunications competition emerges. Additionally, we direct the NANC to select as NANP Administrator an independent, non-government entity that is not closely associated with any particular industry segment. Initially, we seek from the NANC recommendations on: (1) What the transition plan should be for transferring CO code administration responsibilities from LECs to the new NANP Administrator?<sup>89</sup> (2) What measures should be taken to conserve numbering resources?<sup>90</sup> (3) What number resources, beyond those currently administered by the NANP Administrator should the NANP Administrator administer?<sup>91</sup> and (4) Whether the NANC, after two years, should continue as a federal advisory committee. During the first meeting of the NANC, the Commission will work with the NANC to set schedules for NANC preparation of these recommendations.

47. NANC Must Meet FACA Requirements. The Federal Advisory Committee Act states that any advisory committee established or utilized by one or more agencies in the interest of obtaining advice or recommendations for federal agencies shall be subject to FACA.<sup>92</sup> The Act further states that new advisory committees should be established only when they are determined to be essential.<sup>93</sup> An advisory committee created under FACA must have a membership fairly balanced in terms of the points of view represented.<sup>94</sup> In meeting this requirement we anticipate council membership would be drawn from all segments of the industry including LECs, Interexchange Carriers (IXCs), Wireless Service Providers, Competitive Access Providers and other interested parties both within the United States and from other NANP member countries. We further anticipate council membership will include members representing state interests such as NARUC, state public utility commissions, telecommunications users and other consumers groups. The specific membership will be

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<sup>89</sup> See Section IV, C, infra.

<sup>90</sup> See para. 96, infra.

<sup>91</sup> See Section III, B, 3, ii, infra.

<sup>92</sup> FACA, 5 U.S.C., App § 4(a) and § 3 (2)(C).

<sup>93</sup> Id. at § 2 (b)(2).

<sup>94</sup> Id. at § 5 (b)(2).

determined when the NANC charter is established. Additionally, meetings must be open to the public, detailed meeting minutes prepared and a designated federal official present at all meetings.<sup>95</sup>

48. For all the reasons set forth above, we determine that the NANC as defined above should be established as an advisory committee because the creation of this council is essential and in the public interest. We further determine that the NANC must meet the requirements of the FACA because we will seek advice and recommendations from this council. Additionally, we believe that creating the Council under the FACA will ensure that its activity and advice to the Commission is the result of open and impartial discussion.

49. We disagree with MCI's conclusion that a committee established by the Commission to obtain policy advice on numbering matters would not be subject to the FACA. MCI relies on Public Citizen v. U.S. Dept of Justice, 491 U.S. 440 (1989), to support its position. We find the holding in Public Citizen inapposite here. In Public Citizen, the Court held that the use of the views of the American Bar Association's Standing Committee on the Federal Judiciary regarding judicial nominees by the Justice Department did not subject the ABA committee's meetings to FACA requirements. The Court focused its analysis on defining the term "utilized" in Section 2 of FACA. The Court determined that to interpret that term in its broadest possible sense would extend coverage of FACA beyond that which Congress intended: "Although its reach is extensive, we cannot believe that it was intended to cover every formal and informal consultation between the President or an Executive agency and a group rendering advice."<sup>96</sup> The Court reasoned that the term "utilized" should be read sufficiently narrowly to consider the reason for which FACA was enacted: "FACA was enacted to cure specific ills, above all the wasteful expenditure of public funds for worthless committee meetings and biased proposals."<sup>97</sup>

50. The Court noted that it was focusing on the definition of "utilized" because the ABA committee was not established by the Government.<sup>98</sup> Therefore, although the Court's statement regarding the purpose of FACA would apply here, the specific holding would not, given that we would not be using an existing group but creating a new one to provide advice. In Public Citizen, the Court observed that the phrase "established or organized" was to be understood in its "most liberal sense, so that when an officer brings together a group by formal or informal means . . . to obtain advice and information, such group is covered by the

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<sup>95</sup> Id. at § 10.

<sup>96</sup> 491 U.S. at 453.

<sup>97</sup> Id.

<sup>98</sup> Id. at 452.

provisions of this bill [the Senate bill that grew into FACA]."<sup>99</sup>

51. The NANC, as we intend to create it, conforms to the purpose for which Congress enacted FACA, as stated by the Supreme Court. Our finding that the NANC must be established under FACA is supported by the United States Court of Appeals for the D.C. Circuit in the recent Ass'n of Amer. Physicians and Surgeons v. Clinton, 997 F.2d 898 (D.C. Cir. 1993) (Clinton). In Clinton, the Court focused on the structure of the vehicle through which advice was rendered in determining the applicability of FACA. According to the court, to be subject to FACA the advice to an agency must come from a group "and not a collection of individuals".<sup>100</sup> The Court further states that an entity rendering advice qualifies as a "group" for the purpose of constituting an advisory committee if it has the requisite "formality and structure."<sup>101</sup> The Court noted evidence of such formality: "In order to implicate FACA, the President, or his subordinates, must create an advisory group that has, in large measure, an organized structure, a fixed membership, and a specific purpose."<sup>102</sup> The NANC we intend to create will have such characteristics.

52. In a recent decision, the United States District Court for the District of Columbia, held that the Forest Ecosystem Management Assessment Team (FEMAT) was an advisory committee. The holding relied heavily on the policy advising purpose of the committee. The court stated: "It [FEMAT] was a consultive assembly of knowledgeable persons for a specific purpose ... it was both 'established' and 'utilized' by the President for his guidance in devising a forest management policy. And it did render him 'advice' and 'recommendations' which he accepted and followed." Northwest Forest Resource Council v. Espy, 846 F. Supp. 1009, 1012 (D.D.C. 1994). The makeup of the NANC, as we intend to create it, as well as its role vis-a-vis the Commission, is similar to that of FEMAT.

53. Given that this committee is essential for the Commission to develop the most effective number administration policies and that we seek from it advice reached by consensus, we conclude that the NANC is subject to FACA. Additionally, we believe that the broad representation and public access requirements of FACA will prevent industry perceptions that the NANC is biased, or that it fails to afford to all the opportunity to contribute and be heard with respect to the development of numbering policy.

### 3. North American Numbering Plan Administrator

#### i. Type of Entity

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<sup>99</sup> Id. at 461, quoting S. Rep. No. 92-1098, 92d Cong., 2d Sess (1972).

<sup>100</sup> 997 F.2d at 913.

<sup>101</sup> Id. at 914.

<sup>102</sup> Id.

54. **Background.** In the NPRM, the Commission tentatively concluded that the new NANP Administrator should be a "single, non-government entity, established by the Commission and, therefore, subject to our oversight but also separate from this Commission and not closely identified with any particular industry segment."<sup>103</sup> The Commission tentatively concluded that if it is determined that a government agency should be the NANP Administrator, this Commission would be that agency.<sup>104</sup> The Commission also tentatively concluded that despite its familiarity with the telecommunications industry, the National Exchange Carrier Association (NECA), with its ties to a particular segment of the industry, the LECs, would not be a suitable candidate for NANP Administrator.<sup>105</sup> The Commission noted that while ATIS also has close ties to the LECs, given the recent expansion of its governing board to include non-LECs, it would be premature to exclude the possibility of ATIS assuming the role of NANP Administrator, and sought comment on the issue.<sup>106</sup>

55. **Positions of the Parties.** The majority of the commenting parties support the NPRM conclusion that the NANP Administrator should be a neutral third party that is not aligned with a particular industry segment.<sup>107</sup> As such, they oppose designation of an entity aligned with a particular segment of the industry such as ATIS or NECA as the NANP Administrator.<sup>108</sup> ATIS does not propose that it be NANP Administrator.<sup>109</sup> Regarding the possibility of NECA's assuming the role of NANP Administrator, McCaw argues that NECA is "too closely identified with a specific industry segment to present the appearance of impartiality."<sup>110</sup> NECA and NTCA argue that it is premature to rule out NECA as a possible candidate.<sup>111</sup> NTCA argues that NECA's ties to the industry should not interfere with its ability to perform NANP administrative functions in a neutral manner, given the purely

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<sup>103</sup> NPRM at para. 18.

<sup>104</sup> Id.

<sup>105</sup> NPRM at para 15.

<sup>106</sup> Id. at para. 14.

<sup>107</sup> See, e.g., AMTA Comments at 4; AT&T Comments at 8; Bell Atlantic Comments at 2; ATIS Comments at 5; CTIA Comments at 3; PCIA Reply at 9.

<sup>108</sup> See, e.g., ALTS Comments at 1; Ad Hoc Comments at 5; Allnet Comments at 7; McCaw Comments at 3, n.6; MFS Comments at 3.

<sup>109</sup> ATIS Reply at 8.

<sup>110</sup> McCaw Comments at 3, n.6.

<sup>111</sup> NECA Comments at 14; NTCA Reply at 4.