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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Policies and Rules	)	FCC 96-75
Concerning Operator Service	)	
Providers and Call Aggregators	)	CC Docket No. 94-158

COMMENTS

BellSouth Telecommunications, Inc., by counsel, hereby files its Comments to the Further Notice of Proposed Rulemaking (“NPRM”) released by the Commission on March 5, 1996. The Commission concluded from the Comments received in this proceeding that delay exists in updating consumer information posted on aggregator pay telephones and that a specific time limit is necessary.<sup>1</sup> The Comments previously filed presented evidence of high volume, unauthorized presubscribed interexchange carrier (“PIC”) changes (“slamming”). Despite the lack of any evidence that the number of delays in information updating that inevitably occur in the wake of slamming posed a substantial problem, the Commission seeks comment on a rule requiring that consumer information be updated within 30 days after a payphone service provider (“PSP”) is notified that a PIC change has occurred, with no corresponding ability to use the frequency of regular maintenance schedules as a defense to liability, and with slamming to be considered as a defense to a violation of the 30 day limit only on a case-by-case basis.<sup>2</sup>

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<sup>1</sup> NPRM at para. 43.

<sup>2</sup> NPRM at para. 44.

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At a time when the Commission prides itself on being deregulatory, the 30 day limit constitutes unnecessary regulatory interference with business management in the increasingly competitive payphone marketplace. The proposed rule should at the very least be modified to reflect the realities of that market. The majority of commenters who supported limits of 30 days or less were not the PSPs who will have to comply with the rule, but interexchange carriers and state regulators. The Commission did not give due consideration to the record evidence of PSPs, the entities that actually have to incur the expense of responding to PIC changes, many of them unauthorized. The burden falls disproportionately on regional bell operating company ("RBOC") and GTE PSPs. With passage of the Telecommunications Act of 1996,<sup>3</sup> and pending completion of the Commission's rulemaking in November of 1996, RBOC and GTE PSPs may soon be allowed to select the PIC on their own payphones. Meanwhile, independent PSPs continue to be able to compete in the market for payphone services by offering location providers a commission on coin and 0+ traffic originating from their phones. In this way, independent PSPs earn revenue heretofore denied to RBOC and GTE PSPs by reselling local and 1+ long distance service and by contracting for 0+ traffic with operator service providers ("OSPs") that pay commissions on 0+ traffic. Under the Commission's proposed rule, RBOC and GTE PSPs incur all of the burdens of responding to large numbers of PIC changes, which are completely outside of their control, without receiving

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<sup>3</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, approved February 8, 1996 (Provision of Payphone Service § 276).

the benefits, including the substantial revenues derived from PIC commissions, of full participation in the payphone market.

The record simply does not support an inflexible time limit in light of the absence of evidence of any significant lapse on the part of aggregators in maintaining current OSP signage. The record in this proceeding shows that the Commission has received only one complaint directed to informational postings at BellSouth pay telephones and this single complaint was resolved. There is no record evidence of recurring complaints against other PSPs. An inflexible regulation mandating updates within 30 days will have the effect of depriving BellSouth and other aggregators of necessary flexibility in the management of their payphone equipment and will unnecessarily raise the costs of doing business.

In BellSouth's sales territory, a small percentage of the company's 174,000 payphone stations generate most of the company's collection and maintenance activity. Of necessity, BellSouth must visit the high volume payphones more frequently than others, but can visit the majority of its payphone stations in a 60 day period. BellSouth strongly feels that updates can be properly accommodated within this maintenance cycle. If any sort of regulatory mandate is necessary, such a mandate should only require that (1) updates be posted at the next PSP maintenance or collection visit and, (2) in the event a complaint concerning informational postings should be received, that a special dispatch would be generated to resolve the complaint.

In the alternative, should the Commission insist on establishing a 30 day limit, it should allow PSPs to meet this requirement where it would not otherwise visit the particular payphone location within 30 days by (1) mailing a temporary sticker to location

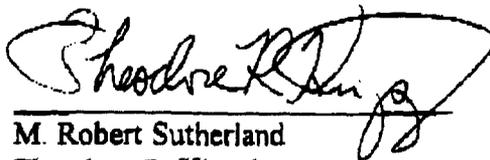
providers within 30 days of the PSP's receipt of notification of a PIC change, which the location provider would affix to the payphone, and (2) replacing the temporary sticker with permanent signage during the next regularly scheduled maintenance visit. In any event, equity requires that slamming be at least a prima facie defense to any failure to meet the commission's posting requirements, with the burden on the OSP to demonstrate conclusively that the PIC change in question was in fact authorized.

#### CONCLUSION

There is no need for the Commission to establish any time limit for updating consumer information other than providing that such updates should be provided at the next regularly scheduled maintenance visit. In the alternative, should the Commission establish a limit, it should allow PSPs to meet the requirements by mailing a temporary sticker to the location provider within the prescribed limit, and later replacing the temporary sticker at the next regularly scheduled maintenance visit.

Respectfully submitted,

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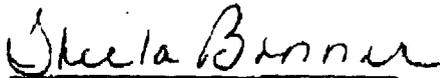
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this 26th day of March, 1996 served all parties to this action with a copy of the foregoing COMMENTS by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.

  
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