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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR 29 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Telephone Number Portability) CC Docket No. 95-116

**FURTHER COMMENTS OF THE
INTERACTIVE SERVICES ASSOCIATION**

The Interactive Services Association ("ISA"), by counsel and pursuant to 47 C.F.R. § 1.415, submits these comments in response to the FCC's Public Notice, released March 14, 1996, requesting further comments in this proceeding.

I. INTRODUCTION

The Commission has asked parties to comment on how passage of the Telecommunications Act of 1996^{1/} may affect the issues raised in its July Notice of Proposed Rulemaking.^{2/} As discussed below, the Act (1) requires the Commission to establish regulations on or before August 8, 1996 that oblige all local exchange carriers ("LECs") to provide long-term service provider portability for 900 telephone numbers; and (2) increases the immediate need for 900 portability by redirecting more pay-per-call traffic to 900 numbers.

^{1/} Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (the "Act").

^{2/} In re Telephone Number Portability, 10 FCC Rcd. 12,350 (1995) ("NPRM").

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II. DISCUSSION

A. The Act Directs the Commission To Adopt Rules Requiring LECs To Provide Service Provider Portability on a Permanent Basis if Technically Feasible.

Section 101 of the Act (47 U.S.C. § 251(b)(2)) requires all LECs "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." The type of number portability required by this section is synonymous with what the Commission has defined as service provider portability.^{3/} Furthermore, it is clear that Congress intended to require LECs to implement a permanent number portability solution, not a temporary fix or "interim measure."^{4/}

B. The Record Shows That 900 Portability Is Technically Feasible.

The qualifying phrase in Section 101, "to the extent technically feasible," does not condition the mandate of that

^{3/} Section 3 of the Act defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." The Commission defines service provider portability as "the ability of end users to retain the same telephone numbers . . . when changing from one service provider to another." See NPRM ¶ 13.

^{4/} In Section 151 of the Act (47 U.S.C. § 271(c)(2)(B)(xi)), Congress states that "[u]ntil the date by which the Commission issues regulations pursuant to section 251 to require number portability," the Bell Operating Companies could meet their access and interconnection obligations by implementing "interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements."

section upon any economic parameters, but requires only that number portability be technically feasible -- i.e., possible.^{5/} For 900 numbers, the record clearly demonstrates that long-term service provider portability is technically feasible.^{6/} Several LECs informed the Commission during the 800 portability proceeding, for example, that the 800 database system could be used to accommodate 900 services.^{7/} The Teleservices Industry Association made the same representation in its 1994 Petition for Rulemaking.^{8/} Significantly, not a single commenter in this

^{5/} If Congress had desired to leave economic considerations within the Commission's discretion, it plainly knew how to do so. A separate provision in the same section of the Act contains an exemption for rural telephone companies from certain interconnection obligations if such obligations are either technically infeasible or "unduly economically burdensome." 47 U.S.C. § 251(f)(1)(A). Congress also provided an exemption from the closed captioning requirements of the Act for video program providers if providing closed captions would be "economically burdensome." 47 U.S.C. § 713(d)(1).

Although the Act directs the Commission to implement number portability regardless of its cost, Congress was not indifferent with respect to who should pay these costs. Section 101 of the Act compels the Commission to allocate the costs of establishing portability among "all telecommunications carriers on a competitively neutral basis." 47 U.S.C. § 251(e)(2). To fulfill this obligation, the ISA again urges the Commission to require the LECs to submit data concerning the total costs of implementing and operating the equipment needed to make 900 numbers portable. The Commission also should remain mindful of the objective of 900 service provider portability -- to encourage competition among carriers and to lower prices for consumers.

^{6/} The ISA has no opinion on the technical feasibility of implementing service provider portability on a permanent basis for geographic telephone numbers.

^{7/} See In re Provision of Access for 800 Services, Supplemental Notice of Proposed Rulemaking, 3 FCC Rcd. 721, ¶ 21 n.31 (1988).

^{8/} See Petition for Rulemaking by the Teleservices Industry Association, RM No. 8535 (filed Oct. 18, 1994).

proceeding has argued that it is technically impossible to make 900 numbers portable.^{9/} Instead, opponents of 900 portability have argued that it is not economically prudent to make 900 numbers portable.^{10/} As shown above, Congress has since declared that such economic arguments are no longer relevant.

C. Section 701 of the Act Increases the Need for 900 Number Portability.

In addition to mandating that the Commission establish rules requiring 900 number portability by August 8, 1996, the Act also contains a provision that increases the immediate need for competition among 900 transport providers. Section 701(b)(2) of the Act eliminates the explicit tariff exception contained in Section 228(i)(2) of the Communications Act of 1934 which many information providers have relied upon to offer pay-per-call services on non-900 numbers. Thus, Section 701(b)(2) redirects to 900 numbers all pay-per-call traffic that previously was routed over 10XXX numbers and other alternative dialing patterns. This redistribution will dramatically increase demand for 900 services, making 900 portability more important than ever.

^{9/} Indeed, given the industry's successful implementation of service provider portability for 800 numbers in 1993, and for 888 numbers earlier this month, any attempt to argue that 900 service provider portability is technically impossible would be without merit.

^{10/} See, e.g., Comments of Ameritech at 13-15; Comments of Bell Atlantic at 22-23; Comments of BellSouth at 17; Comments of GTE at 24; Comments of NYNEX at 19; Comments of SBC Communications at 25, 27; Comments of Sprint at 19-20; Comments of USTA at 11-12.

III. CONCLUSION

The Act directs the Commission to adopt rules requiring LECs to provide 900 service provider portability on a permanent basis. It also increases the immediate need for 900 portability by redirecting more pay-per-call traffic to 900 numbers. The Commission should act quickly to adopt rules and policies necessary to implement 900 portability in accordance with this mandate.

Respectfully submitted,

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