

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

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In the Matter of:)
)
Implementation of the Local Competition)
Provisions in the Telecommunications Act)
of 1996)
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)

CC Docket No. 96-98

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COMMENTS OF THE UNITED STATES TELEPHONE ASSOCIATION
on
Dialing Parity/Number Administration/Technical Changes/Access to Rights of Way

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SUMMARY

Parts of the Commission's Notice properly seek to define the relevant statutory language and ensure meaningful implementation of Congressional intent. Other aspects of the Notice represent attempts to identify all possible areas of dispute and to resolve them now. This effort, while well-meaning, represents a battle against ambiguity and uncertainty in quarters where it is not called for. In attempting to establish rules for all possible situations, the Commission may in fact simply create more areas of dispute. In general, the Commission should instead simply implement these provisions of Sections 251(b) and (c) through reliance on procedures already established by the Commission, state commissions and industry bodies.

The Commission can implement the Act without addressing anew many of the issues involved. For example, with respect to the obligation of incumbent LECs to provide notice of technical changes, the Commission can rely on the principles it has already established as well as those established by industry bodies. With respect to number administration, the Commission correctly notes that many of its obligations under the Act have already been addressed. There is no need to reassess any of the Commission's earlier conclusions based on hypothetical possibilities - such reassessment can be undertaken at a later date if circumstances warrant.

With respect to dialing parity, the Commission notes that there is some variation among the states regarding presubscription methodologies allowing a customer to select an intraLATA, interLATA, or international carrier. Any one of the methods currently considered by states is consistent with the Act's requirements. Accordingly, the Commission need not adopt national standards regarding dialing parity. Questions with respect to the appropriate balance of costs and benefits, including a timetable for implementation, should be left to the states.

The Commission correctly notes that national standards are not needed with respect to local dialing parity. The Commission is correct to conclude that customers will obtain the ability to make local calls without dialing extra digits through the unbundling, number portability, and interconnection requirements of Section 251. A natural consequence of this arrangement is that implementing the network functionalities necessary to provide dialing parity, as part of Section 251(b), is the responsibility of each individual LEC. As each LEC is responsible for making this capability available to their own subscribers, they should not be constrained in the manner in which they choose to do so.

With respect to nondiscriminatory access to operator services, directory assistance and directory services, the Commission correctly notes that all local service customers (regardless of who their local provider is) must be able to contact a local operator on a zero-plus ("0" + the telephone number) or zero-minus (simply dialing "0") basis. The Commission should clarify that, under this definition, there is no duty that incumbent LECs provide operator services directly to their competitors' end users, only to make such services accessible to competitors.

The same goes for directory assistance and directory listings. For example, how customers of competing providers access directory assistance is a function of how the competing provider chooses to offer that service. LECs are simply obligated to make available databases and other functions to competing providers in the same manner that those functions are available to itself. Additionally, where all LECs in a given area cooperatively agree to store directory records, no alternative dialing pattern is required for subscribers to obtain directory information.

Finally, with respect to the issue of unreasonable dialing delays, the only issue to address is whether the delay constitutes discriminatory access to the operator services or directory assistance of a LEC competitor. If a LEC offers comparable access to all competitors (including itself), there should be no question as to whether such delay is unreasonable. Analysis of this issue should bear in mind that in many cases, there will be more than one provider involved in processing a call. Additionally, dialing delay is a function of the network deployed. The Act contemplates, and the Commission should encourage, competition for subscribers based on service quality. Consequently, the period of delay will vary as a result of market forces and business initiative.

With respect to access to rights-of-way, this obligation is similarly one imposed on all LECs. Consequently, the terms and conditions of access should be reciprocal and affirm that incumbent LECs have a statutory right to the use of the poles and conduit of other utilities. Section 251(b)(4) provides that all LECs must afford access to rights-of-way under rates, terms and conditions that are consistent with section 224. The Notice proposes to adopt specific standards with respect to these terms and conditions, e.g., what constitutes "insufficient capacity"; when access may be denied for safety reasons, how notice of modifications should be provided, and how proportionate cost burdens associated with modifications to pole attachments should be recovered.

In almost all cases, these matters can be resolved through mutual agreement between the parties affected. Moreover, no regulation by the Commission is permitted where states have certified that they will regulate these matters. Given these facts, no comprehensive action by the Commission is required. While the Commission must develop rules (to be applied only where the parties cannot agree), there is no possible way that the Commission could adopt specific national standards which would effectively resolve each and every possible issue regarding capacity, safety or notice of modifications. Like LEC network facilities, poles, conduits and rights-of-way are not deployed in a uniform manner. The variety of poles, ducts, conduits, rights-of-way, the number, nature and variety of providers seeking to utilize such infrastructure, the particular local regulatory, economic and aesthetic considerations involved, the network planning needs of various utilities, and the impact of other facts create too many diverse situations to be effectively addressed by detailed federal rules.

Incumbent LECs are obligated to provide reasonable public notice of technical changes that affect information needed for transmission and routing of services using the LECs' facilities or networks, or that would affect their interoperability. In order to implement this requirement, the Commission tentatively concludes, *inter alia*, that notice of such changes should be provided through industry forums or in industry publications. The Commission's position is correct: the voluntary practices that now exist in the industry can serve as a platform from which to implement this provision of the Act. Moreover, industry fora encourage notice of technical changes among all telecommunications providers, consistent with the requirements of Section 251(a). As an example of how these industry fora resolve such matters, USTA includes with its comments a copy of the Industry Carriers Compatibility Forum (ICCF) paper entitled "Recommended Notification Procedures to Industry for Changes in Access Network Architecture." This paper establishes many governing principles and addresses many of the issues raised regarding minimum requirements for the content and process of notice.

Finally, with respect to number administration, the Notice correctly concludes that the requirements of the Telecommunications Act of 1996 are satisfied by the Commission's actions in CC Docket 92-237, regarding the selection of an impartial number administrator. This action satisfies both the obligations of Section 251(e)(1)(requiring the Commission to designate one or more impartial entities to administer numbering), and the requirements of incumbent LECs to ensure nondiscriminatory access to telephone numbers, as required by Sections 251(b)(3) and by the BOC "checklist," Section 271(c)(2)(B). The Commission should promptly transfer the number administration functions to the new NANP administrator.

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**COMMENTS OF THE UNITED STATES TELEPHONE ASSOCIATION
on
Dialing Parity/Number Administration/Technical Changes/Access to Rights of Way**

The United States Telephone Association (USTA) respectfully submits these comments in response to the Federal Communications Commission's (Commission)'s Notice of Proposed Rulemaking dated April 19, 1996.¹ USTA is the principal trade association of the local exchange carrier industry. Its members provide a wide variety of telecommunications services, including interstate, interexchange service.

- I. With Respect to Obligations Applicable to All LECs, the Commission Should Adopt Only Basic Guidelines Which Codify the Minimum Requirements of the Act**
- A. LECs Should Be Able to Fulfill Their Obligation to Provide Dialing Parity in any Reasonable Manner Consistent With the Statute**
- 1. There is No Need for a Single Federal Standard for Toll Dialing Parity Implementation**

The Notice notes that the statutory definition of dialing parity provides that the customer must have the ability to chose "from among 2 or more telecommunications service providers

¹In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, FCC 96-182, Notice of Proposed Rulemaking (released April 19, 1996)("Notice").

(including such local exchange carrier).” Notice, para. 207, quoting 1996 Act, Section 3(15). With respect to toll services, the definition of dialing parity indicates that the purpose of this requirement is to ensure that interexchange carriers not affiliated with the local provider are not discriminated against with respect to their ability to provide services to end user customers. See 47 U.S.C. § 153(15). Customers should be able to reach their chosen toll carrier without dialing access codes or extra digits regardless of whether the long-distance carrier is also the local provider, or is affiliated with the local provider.

The Notice tentatively concludes that a presubscription process represents the most feasible method of achieving dialing parity in long distance markets consistent with this requirement. Id. The Notice seeks comment on various forms of presubscription, and requests comment as to the categories of long distance traffic for which a customer should be entitled to choose a presubscribed carrier. Notice, para. 210.

Except for requiring compliance with the minimum requirements of the Act, the Commission should defer determinations as to dialing parity mechanisms and dialing parity implementation to the states. Some states have already adopted particular methods, based on careful consideration of the costs of implementing dialing parity, and the benefits to competition and customer choice. The Commission should not preempt states from adopting a particular method, nor require carriers to change the implementation method they have already adopted in that state. Additionally, in order to justify any requirements beyond the minimum contemplated by Congress, both states and the Commission must establish the basis for such requirements through the record in this proceeding. While the Notice remarks that requiring multiple presubscriptions for each type of toll service could be seen to open the market to the greatest number of competitive service providers, see Notice, para. 206, the Commission has only addressed half of the question.

In order for the Commission (or a state commission) to justify a more complex version of dialing parity, the benefit must be weighed against the cost of implementation, and the effect of that cost on local exchange carriers, incumbents and new entrants alike. But the Notice (which is otherwise packed with inquiries) fails to even request comment on the availability of technology, or the cost of the capability to enable customers to presubscribe to multiple carriers for various categories of long-distance calling (known as a “multi-PIC” capability). The cost of providing multi-PIC capability should be also weighed against customer demand for a separate international PIC option, and the harm to consumers from a potentially greater number of unauthorized carrier changes.

In this proceeding, the Commission should simply affirm that the ability to obtain toll services (including intraLATA toll) from either the incumbent LEC or their presubscribed toll carrier (known as the “2-PIC” method, see Notice, para. 210) satisfies the requirements of the Act. In addition, the Commission should affirm that qualifying LECs may request that state commissions consider whether a suspension or modification of the dialing parity requirements is appropriate given the associated costs, pursuant to the authority granted to states by the Act. See 47 U.S.C. § 251(f)(1) and (2).

Implementation of a multi-PIC capability is likely to be expensive and take longer to implement than simply opening up the intraLATA market to the same carriers who presently offer interLATA service.² Since the duty to provide dialing parity extends to all LECs, any

²Although USTA’s comments reflects the Notice’s use of the LATA distinction, implementation of the 1996 Act will eventually eliminate the significance of the LATA boundaries. Moreover, LATAs are much less relevant for Independent telephone companies who were never subject to interLATA line-of-business restrictions. For example, the 1996 Act only addresses intraLATA toll dialing parity in conjunction with the BOCs. See 47 U.S.C. § 271(e)(2)(states may not require a BOC to implement intraLATA toll dialing parity before it has been granted interLATA authority or before 3 years from enactment, whichever is earlier). The relevant distinction, for the long-term, will be between intrastate and interstate toll traffic.

additional cost burdens imposed on local exchange providers could detract from the rapid development of local competition. The Commission should leave consideration of the costs and benefits to state commissions, and simply affirm the minimum requirements of the 1996 Act.

The Notice requests comment on what implementation schedule should be adopted for LECs' dialing parity obligations. Notice, para. 212. Implementation schedules should be left first to the states. Many states have implementation schedules already in place. Any implementation guidelines adopted by the Commission should provide that implementation is subject to a determination that dialing parity is technically feasible, permit LECs a reasonable time to implement such capability, and take into consideration other interconnection issues. Such considerations are important for the development of local competition, as a LEC may wish to obtain the underlying functionalities it uses to fulfill its dialing parity obligations from incumbent LECs pursuant to Section 251(c)(2) or (c)(3) of the 1996 Act. Implementing these and other arrangements takes time, and requires that competitive entrants have sufficient information with respect to how they will implement dialing parity.

The Commission requests comment as to whether the Commission should require LECs to notify consumers about carrier selection procedures or impose consumer education requirements. Notice, para. 213. In areas which are just converting to intraLATA presubscription, some consumer education would be appropriate. The LEC should not be required to implement a balloting procedure. The Commission can expect that consumers will be sufficiently informed that they have options with respect to toll services by the marketing efforts of the carriers in the market. Rather, LECs need only provide consumers with information, upon request, as to how they can change their presubscribed intraLATA or interLATA carrier, and what requirements must be met to protect against unauthorized carrier changes, e.g., whether the consumer must verify a carrier change before it becomes effective. See 1996 Act, Section 258(a) (Commission required to prescribe verification procedures for changes in presubscribed carriers).

2. The Commission Should Limit Local Dialing Parity to Calls Between Local Exchange Carriers and Accomplish Local Dialing Parity Through Section 251

The Notice tentatively concludes that a LEC is required to permit telephone exchange service customers within a defined local calling area to dial the same number of digits to make a local telephone call, notwithstanding the identity of a customer's or the called party's local telephone service provider. Notice, para. 211. This definition operates cleanly when the calling and called party are both customers of a local exchange service provider. Neither customers of the incumbent or a competitive LEC should be required to dial extra digits to place calls to subscribers of a competitor's LEC services. The Commission should clarify, however, that Section 251(b)(3) applies only between local exchange carriers and "competing providers of telephone exchange service and telephone toll service."

Application of this requirement as between LECs and CMRS providers could complicate implementation of certain "sender pays" arrangements which have been adopted in certain states. If dialing parity were read to preclude use of the extra digits and/or recorded announcements associated with a "sender pays arrangement," customers may receive bills for calling CMRS customers without advance notice that they are going to be billed for such calls. Such a reading of the Act could limit states' flexibility in regulating local service and deprive customers and telcos of options.

The Notice also correctly concludes that presubscription does not represent the method by which carriers would accomplish local dialing parity. Notice, para. 207, n. 284. Rather, each LEC will be required to provide local dialing parity as part of its package of services offered to end users. While a competitive LEC may fulfill its dialing parity obligations through interconnection or unbundled elements obtained from the incumbent LEC, the incumbent LEC is not responsible for developing or providing the package of services provided by a competitive LEC to its own subscribers, including ensuring the availability of dialing parity. As with long-

distance dialing parity, balloting procedures are unnecessary and customers can be informed about the choices available through the marketing efforts of the carriers in the market. See Notice, para. 213.

B. The Commission Should Simply Require that All LECs Offer Access to Operator Services, Directory Assistance and Directory Services Which Is Equivalent in Type and Quality

With respect to nondiscriminatory access to operator services, directory assistance and directory services, the Commission confuses the requirements of the plain language of Section 251(b)(3), which require that LECs offer non-discriminatory access to other LECs, with another requirement which, although perhaps desirable, is not imposed on LECs by the Act. Specifically, the Notice states that all local service customers (regardless of who their local provider is) must be able to contact a local operator on a zero-plus ("0" + the telephone number) or zero-minus (simply dialing "0") basis. Notice, para. 216. This definition may be susceptible to confused interpretations. Pursuant to Section 251(b)(3), "providers," not "customers," are guaranteed "nondiscriminatory access" to operator services. Thus, all LECs must make available connections to their operator services to other LECs on a nondiscriminatory basis.

Logically, the result of such access should be that another LEC can offer its subscribers the ability to obtain operator services in the same manner that the LEC provides services to its own subscribers. For example, a LEC subscriber should not be required to dial an access code to reach their presubscribed operator service provider, even if that operator service provider is not affiliated with the subscriber's local service provider. See 1996 Act, Section 3(15) ("dialing parity" is defined as an ability provided to a person "not an affiliate of a local exchange carrier," e.g., an interexchange provider or operator services provider).

But how a LEC chooses to offer such access to its subscribers is another matter not addressed by the Act. There is no duty that incumbent LECs provide operator services directly

to a subscriber of a competitor. Similar treatment should obtain for directory assistance and directory listings. For example, whether customers of competing providers can access directory assistance by dialing 411 or 555-1212 is a function of whether that competing LEC elects to obtain or deploy the facilities necessary to provide that service to their customers.³ The Commission's interpretation of the directory assistance language of the Act appears to suggest that all customers must be able to access directory assistance in the same manner. See Notice, para. 217. But, the Act does not require that a LEC ensure that its competitors' subscribers receive directory assistance through the same manner as its own customers do. The Act merely requires that LECs permit competitors to access its directory assistance services or database listings in order to provide service to its customers.

The Notice requests comment on whether an alternative dialing arrangement is needed in order to make directory assistance databases accessible to all providers. Notice, para. 217. Depending on how the parties involved choose to provide each other with access to directory assistance, there is no need for an alternative dialing arrangement. Section 251(b)(3) simply requires LECs to make available directory assistance service and directory listings on a nondiscriminatory basis (e.g., make them available to other LECs on the same basis they are available to itself). See also 47 U.S.C. § 271(B)(vii)(II)(BOC "competitive checklist" requires nondiscriminatory access to directory assistance services "to allow the other carrier's customers to obtain telephone numbers"). But the LECs involved in providing service to a particular area should be free to determine what arrangement will be used to provide such a capability; a LEC should be free to either use its own facilities or make arrangements to use the capabilities of other providers.⁴

³For example, if a competitive LEC chooses to provide its subscribers with directory assistance through a "211" dialing pattern, that is not precluded by the 1996 Act.

⁴Under Section 251(c)(1) of the 1996 Act, incumbent LECs are required to negotiate dialing parity arrangements in good faith; Section 252 provides for mediation and arbitration under state guidance to address unresolved issues. See 47 U.S.C. §§ 251(c)(1), 252.

For example, a single LEC could simply agree to provide 411 or local 555-1212 directory assistance services to competing providers. See Notice, para. 217. Alternatively, the parties may contemplate that their needs are best served by avoiding the construction of duplicate facilities, and simply agree to store all records in an existing LECs' database or create a directory assistance database administered by a third party. Some LECs may wish to construct their own databases, and request listings from other LECs.⁵ The Commission should permit parties to negotiate these arrangements, and not take any action which would preclude competition for the directory assistance services used by LECs.⁶

Finally, the Notice requests comment regarding the prohibition on "unreasonable dialing delays" in Section 251(b)(3), and on an appropriate definition of "dialing delay." Notice, para. 218. Any definition of dialing delay should recognize that calls will quite often be processed by multiple entities, any or all of which may contribute to the total processing time involved. The key issue to address here is whether there is any discrimination as to the network functions under a LECs' control. Whether the LEC provides operator services to competitors which "discriminates" should be determined by whether that LEC discriminates in the "access" to operator services, not whether the dialing delay experienced by subscribers differs. If a LEC offers comparable access (comparable to the access it provides to itself) to all competitors, there should be no question as to whether any delay is unreasonable.

Additionally, dialing delay is a function of the quality and complexity of the network deployed. The Act contemplates, and the Commission should encourage, competition for subscribers based on service quality. Consequently, it should be recognized that the period of

⁵Section 251(b)(3) requires LECs to provide competing providers with nondiscriminatory access to directory listings, as well as directory assistance. See 47 U.S.C. § 251(b)(3).

⁶The only technical limitation is that some arrangement will be required to enable all LECs to have access to at least one database which contains all customer data.

delay will vary as a result of market forces and business initiative. Rules must be flexible, and decisions must necessarily be made at the margin and in the marketplace.

C. The Commission Should Defer to State Regulation to Ensure that Access to Rights-of Way is Provided on a Nondiscriminatory Basis

The Notice provides that the 1996 Act requires all LECs to offer access to poles, ducts, conduits, and rights-of-way to competitors on rates, terms and conditions consistent with Section 224. Section 224 requires the Commission to ensure that rates, terms and conditions are just and reasonable, but that a utility may deny access for reasons of insufficient capacity, or for reasons of safety, reliability, and generally applicable engineering purposes. Notice, para. 220-222. Section 224 also provides that federal regulation only comes into play where a state has failed to certify that it will regulate the rates, terms and conditions of such access. See 47 U.S.C. § 224(c)(1); see also 47 U.S.C. § 224(b)(Commission to regulate terms and conditions of pole attachments, subject to provisions of section (c)). Accordingly, the Commission should first defer to state regulation in order to ensure compliance with Section 251(b)(4) and Section 271(b)(iii). Federal guidelines as described below only come into play where states have elected not to regulate such pole attachments.

The Notice requests comment on “specific standards” for determining when a utility has “insufficient capacity.” Notice, para. 223. Specific standards to encompass all bona fide situations are likely to be difficult to develop, and even more difficult to apply. To the extent that the Commission seeks to give guidance to the states, the Commission can rely largely on common sense to establish broad guidelines. For example, the Commission could simply codify that capacity is insufficient when additional lines or facilities would jeopardize safety, reliability, or generally applicable engineering standards. Widely recognized engineering standards established by neutral bodies, e.g. Underwriters Laboratories or the IEEE, can provide guidance as to whether capacity is insufficient to accommodate safely any additional lines or facilities.

The Commission should also establish that utilities should be permitted to reserve capacity for their own use based on business forecasts, e.g., a forecasted upgrade of facilities. Utilities may be required to make reasonable accommodations such as rearranging lines, for competitive providers to obtain access (provided the requesting provider bears the cost on terms consistent with Section 224(I)). The Commission, states and interested parties can further be guided by their experience with the pole attachment provisions of Section 224. Although that Section did not originally create an affirmative duty to offer pole attachments, see, e.g., Notice, para. 220, many LECs did license other providers to use excess space on their poles and conduits, and licensed excess space from other providers, e.g., electric utilities. This body of experience obviates any need for detailed regulation by the Commission.

The Notice requests comment on Section 224(h)'s requirement that the owner of a pole, duct, conduit or right-of-way provide written notice of intended modifications or alterations to the pole, and that each entity involved should bear its "proportionate costs." Notice, para. 224-225. With respect to the timing and manner of notice, these matters should be agreed upon by the parties involved. Parties obtaining pole attachments may not want to receive notice of each and every alteration to the pole, and may wish to contract with the utility for a comprehensive maintenance arrangement. A notice requirement should not delay alterations simply to let a notice period run when a shorter notice period is sufficient. And, utilities providing attachments should be permitted to make emergency repairs without providing notice, particularly where modifications or alterations are required for safety reasons.

With respect to rates charged by for utilities for attachments, including the "proportionate costs" of any modifications, past experience and the specific language of the Act can be a helpful guide. The Act mandates that the Commission shall, no later than 2 years from enactment, prescribe regulations to govern the charges for pole attachments used by telecommunications carriers to provide telecommunications services. See 47 U.S.C. § 224(3)(1); 1996 Act, Section 703. The 1996 Act also makes clear that Commission regulations are applicable only "when the

parties fail to resolve a dispute over such charges.” As the conference agreement states, Section 224(e)(1) “allows parties to negotiate the rates, terms and conditions for attaching to poles, ducts, conduits, and rights-of-way owned or controlled by utilities.”

Section 224(d)(1) (which was not added by the 1996 Act) provides that a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, and is not more than the percentage of the total duct or conduit occupied by the attaching utility, multiplied by the sum of the expenses and capital costs incurred by the providing utility. Similarly, the Commission could establish that the requirements of Section 251(b)(4) are met where the entity which adds or modifies its existing attachment bears a share of the owner’s costs determined by the percentage of total duct or conduit occupied by the attaching utility. Again, however, the Commission need not establish rules to govern every situation. The Act makes clear that parties should be free to negotiate other arrangements for modifying existing attachments, including how each party shall bear its costs, subject to the guidance provided in the Act, past experience, and Commission guidelines where necessary.⁷

II. With Respect to Notice of Technical Changes, The Commission Should Adopt Guidelines Which are Consistent with Established Industry Procedures

Under Section 251(c)(5), incumbent LECs are obligated to provide reasonable public notice of technical changes that affect information needed for transmission and routing of services using the LECs’ facilities or networks, or that would affect their interoperability. In order to implement this requirement, the Commission tentatively concludes, *inter alia*, that notice of such changes should be provided through industry forums or in industry publications. Notice, para. 191. The Commission’s position is correct: the voluntary practices that now exist in the

⁷For example, the parties may agree that the costs of a modification which creates additional pole attachment revenues for the providing utility should be offset by such revenues, but such offset should not be required to ensure that a party bears the proportionate share of costs or obtains just and reasonable pole attachment rates. See Notice, para. 225.

industry can serve as a platform from which to implement this provision of the Act. As an example of how these industry fora resolve such matters, USTA includes with its comments a copy of the Industry Carriers Compatibility Forum (ICCF) paper entitled “Recommended Notification Procedures to Industry for Changes in Access Network Architecture.” This paper establishes many of the principles which should govern this process, and addresses many of the issues raised in the Notice regarding minimum requirements for the content and process of notice are addressed by this ICCF document.

The Commission tentatively concludes that incumbent LECs should be required to disclose “all information relating to network design and technical standards, and information concerning changes to the network that affect interconnection,” and gives specific examples of minimum information that should be provided. Notice, para. 190. While the specific items identified in the Notice all relate to the interconnection provided by the incumbent LEC, there may be other items which do not affect interconnection, but arguably fall within the ambit of “all information relating to network design and technical standards.” There is no basis to require the disclosure of this type of information.

We suggest that the Commission simply specify that, under Section 251(c)(5) incumbent LECs are required to disclose “all changes in information necessary for the transmission and routing of services using that local exchange carrier’s facilities, or that affects interoperability.” This definition would cleanly mirror the language of the 1996 Act, and is sufficiently broad to ensure that public notice of all relevant information is provided.

The Notice requests comment on what constitutes a “reasonable time” for notice of changes, and whether the Commission should adopt a timetable comparable to the disclosure timetable adopted in the Computer III proceeding, e.g., notice provided at the “make/buy point,” and notice at least twelve months prior to the introduction of a new service. Notice, para. 192. The Commission’s decision to require both preliminary notice of a change, and later notice of an

implementation date has merit. However, there may be instances in which twelve months notice is not sufficient to enable an interconnecting LEC to make the necessary decisions and changes. For example, the ICCF guidelines suggest that preliminary notification for an access cut over be provided twenty months in advance of the estimated effective date. On the other hand, certain information does not require such extensive notice, e.g., changes in an NPA boundary. Consequently, attempts by the Commission to define a “reasonable time” for the parties involved are likely to be imprecise, and not properly balanced between the requirements of the Act, and the need for network providers to have flexibility in upgrading their systems. Instead, the Commission might be best served by delegating to an industry forum the responsibility to establish general categories of network changes, and the specific notice periods required.

The Notice requests comment on reconciling the requirements of Section 273(c)(1) and Section 251(c)(5), and how to coordinate administration of the related obligations of Section 251(a)(2) (duty of all telecommunications carriers to install network features, functions, or capabilities which comply with Sections 255 (access to persons with disabilities), and 256 (coordinated network planning)). There is no basis to impose different requirements on the BOCs for purposes of compliance with Section 273(c)(1) than those they are required to follow for Section 251(c)(5). This is in fact one area in which uniformity would provide a benefit to the industry and would be administratively simple.

In developing oversight procedures for public telecommunications network interconnectivity standards under Section 256, the Commission can assist in alerting the industry to general types of technology changes which may lead to specific upgrades or modifications by individual carriers. For example, the Section 256 process could be used to provide industry-wide notice of issues raised by Advanced Intelligent Network (AIN) implementation. Notice of a specific upgrade which affects interconnection would still have to be provided from the upgrading LEC to interconnecting carriers, under section 251(c)(5). But the Section 256 process should be conducted with the requirements of Section 251(a)(2) in mind - that section requires all

telecommunications carriers to comply with network standards prescribed under Sections 255 or 256. Consistent with this requirement, there is no reason why an industry group could not develop a uniform set of guidelines for all providers to provide notice of changes which could affect interconnection or interoperability.

Finally, the Commission should ensure that the requirement to provide notice of technical changes does not become an obstacle to implementing technical changes. While incumbent LECs must provide adequate notice of technical changes which can affect the services provided by competitors who purchase interconnection and/or unbundled elements, they are not obligated to forego or unreasonably postpone such technical changes in order to serve the interests of such interconnecting competitors. Such an obligation would discourage facilities-based competition, and discourage deployment of new advanced services by incumbent LECs, contrary to the express Congressional intent to “accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services.”

III. The Commission Should Adopt Its Tentative Conclusions that the Creation of a Neutral NANP Administrator Satisfies the Requirements of the Act, and Expediently Transfer the Number Administration Functions

The Notice provides that the 1996 Act requires the Commission to create or designate one or more impartial entities to administer telecommunications numbering. See Notice, para. 250; 1996 Act, Section 251(e)(1). The 1996 Act also requires all LECs to offer nondiscriminatory access to telephone numbers, Section 251(b)(3) and requires BOCs to offer nondiscriminatory access to telephone numbers for purposes of the “competitive checklist.” See Notice, para. 251. The Notice also states that the Commission has already taken action to designate an impartial number administrator in the NANP Order,⁸ and tentatively concludes that the NANP Order

⁸Administration of the North American Numbering Plan, CC Docket No. 92-237, Report and Order, FCC 95-283 (released July 13, 1995), recon. pending (“NANP Order”).

satisfies the requirements of Section 251(e)(1).⁹ USTA agrees, and urge the Commission to act quickly to transfer the NANP administration functions to the new administrator.

The Notice tentatively concludes that Bellcore should continue to perform its number administration responsibilities until they are transferred to the new administrator. Notice, para. 258; see Notice, para. 252, n. 348. Particularly in light of the requirements of Section 251 and 271 of the 1996 Act, the Commission should not delay transferring these functions any longer. Bellcore first stated its desire to relinquish these functions nearly three years ago.

⁹We also agree that the NANP Order satisfies Section 251(e)(2)'s requirements regarding cost recovery for numbering administration. Notice, para. 259.

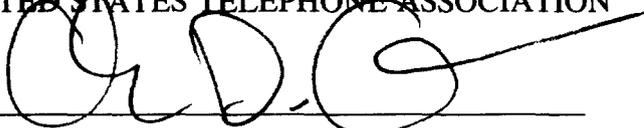
CONCLUSION

The Commission should rely on negotiations between the parties, established state rules and regulations, prior Commission Orders, and existing industry procedures where possible to effectuate the requirements of the 1996 Act with respect to dialing parity, number administration, notice of technical changes, and access to rights of way. Where necessary, the Commission should adopt broad guidelines consistent with the comments above. In all respects, the Commission should avoid attempting to foresee any and all issues and address them in rules, but establish general principles and address specific issues as the need arises.

Respectfully submitted,

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May 20, 1996

ATTACHMENT:

**ICCF Recommended Notification Procedures for
Changes in Access Network Architecture**

ICCF

Industry Carriers
Compatibility Forum

ICCF 92-0726-004
Revision 2 1/5/96
Page 1 of 17

Under the auspices of the
Carrier Liaison Committee

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RECOMMENDED NOTIFICATION PROCEDURES TO INDUSTRY FOR CHANGES IN ACCESS NETWORK ARCHITECTURE

Sponsored by the Alliance for
Telecommunications Industry
Solutions

This document has been revised as a result of resolution to ICCF Issue #284 and agreement to modify the CO code activation interval as it relates to the LERG intervals.

**RECOMMENDED NOTIFICATION PROCEDURES
TO INDUSTRY FOR CHANGES IN
ACCESS NETWORK ARCHITECTURE**

Issued by

INDUSTRY CARRIERS COMPATIBILITY FORUM

RECOMMENDED NOTIFICATION PROCEDURES TO INDUSTRY FOR CHANGES IN ACCESS NETWORK ARCHITECTURE is issued by the ICCF as part of its mission.

Issue 1:

Submitted by The Independent Telephone Company Network Reconfiguration Committee
Accepted and Approved at ICCF16, March 1989

Issue 2:

Submitted by The Data Integrity Group
Accepted and Approved at ICCF22, March 1991

Issue 3:

Accepted and Approved at the January 5, 1996, Emergency ICCF meeting in connection with resolution of ICCF Issue #284, "CO Code Activation Time Frame".

ICCF MISSION STATEMENT

Provide an open forum under the auspices of the Carrier Liaison Committee to encourage telecommunications entities to discuss and resolve, on a voluntary basis, national technical issues associated with telecommunications network interconnection, and the issues associated with the assignment and use of NANP/World Zone 1 numbering resources.

Questions concerning this document should be addressed to:

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