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

In the Matter of	)	
IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS IN THE TELECOMMUNICATIONS ACT OF 1996	)	CC Docket No. 96-98

To: The Commission

REPLY COMMENTS OF METRICOM, INC.

Metricom, Inc. ("Metricom"), by its attorneys, hereby submits these Reply Comments in response to the comments filed in the above-referenced proceeding.

I. METRICOM AGREES WITH COMMENTERS WHO STATE THAT NON-DOMINANT TELECOMMUNICATIONS CARRIERS SHOULD NOT BE SUBJECT TO THE SAME DUTIES AS INCUMBENT LECS.

1. Metricom agrees with the comments of Continental Cablevision, Inc., which noted that the FCC should ensure that new entrants into the local exchange market do not have to assume the same duties as incumbent local exchange carriers

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("Incumbent LECs").[1]

2. As Metricom noted in its Comments, the duties of non-dominant telecommunications carriers[2] and Incumbent LECs should not be identical because Incumbent LECs have an advantage over non-dominant telecommunications carriers as a result of their bottleneck facilities within the local markets. In addition, as Metricom noted in its Comments, the purpose of the Telecommunications Act of 1996 (the "1996 Act")[3] is to increase competition within the local exchange markets by removing any unnecessary statutory or regulatory burdens. Imposing the same interconnection requirements upon Incumbent LECs as on non-dominant telecommunications carriers would actually hinder competition because of the regulatory hurdles non-dominant telecommunications carriers would have to overcome in order to provide service.

3. The National Cable Television Association ("NCTA"), like Metricom, pointed out that "Congress fully understood that new entrants will face tremendous obstacles since they will be competing against an entrenched service provider, and thus it made every effort to limit the obligations imposed on [non-dominant telecommunications carriers]."[4]

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[1] Comments of Continental Cablevision, Inc., at 18.

[2] Commenters referred to competitive carriers as "new entrants" or "competitive local exchange carriers" ("Competitive LECs"). Metricom uses the term "non-dominant telecommunications carriers" throughout these comments as having the same meaning as these other terms.

[3] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

[4] See Comments of the National Cable Television Association, Inc. (hereinafter "NCTA Comments"), at 16 (internal quotation marks omitted).

4. Metricom also agrees with the comments of Teleport Communications Group, Inc., which state that the 1996 Act reflects that non-dominant telecommunications carriers do not have the advantage Incumbent LECs had – constructing their local exchange facilities in an environment in which they have monopoly control over the local exchange market.[5] In other words, non-dominant telecommunications carriers, unlike Incumbent LECs, do not control bottleneck facilities within their markets through which they can deny access to other telecommunications carriers with anticompetitive effect.

II. METRICOM'S PROPOSAL CONCERNING FORBEARANCE WILL SATISFY THE CONCERNS OF THOSE WHO STATE THAT NON-DOMINANT TELECOMMUNICATIONS CARRIERS SHOULD BE ABLE ABLE TO COMPLY WITH THE 1996 ACT BY CONNECTING TO THE PUBLIC SWITCHED NETWORK.

5. In its Comments, Metricom urged the Commission to exercise its authority under Section 10 of the 1996 Act[6] to forbear from imposing any interconnection requirement upon non-dominant telecommunications carriers. Metricom asserted the following as the basis for the Commission's forbearance: (1) enforcement of the requirement is not necessary to ensure that non-dominant telecommunications carriers' practices are neither unjust or unreasonable nor unjustly or unreasonably discriminatory; (2) enforcement of the requirement is not necessary for the protection of consumers; and

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[5] Comments of Teleport Communications Group, Inc., at 12.

[6] 47 U.S.C. § 160(a) (1996).

(3) forbearance from applying the requirement is consistent with the public interest.[7]

6. Several commenters stated that non-dominant telecommunications carriers could satisfy the requirements of Section 251(a) of the 1996 Act by connecting indirectly either with other telecommunications carriers or with the public switched telephone network ("PSTN"). NCTA, for example, urged the Commission to permit non-dominant telecommunications carriers to exercise their discretion regarding whether to interconnect directly or indirectly with other carriers, stating that such discretion will be motivated solely by non-dominant telecommunications carriers' "desire to maximize their competitiveness and customer base."[8] Sprint also concluded that non-dominant telecommunications carriers should have the option to fulfill their interconnection requirement either through direct interconnection with another carrier or through indirect interconnection with a third carrier.[9]

7. Arch Communications Group, Inc. ("Arch") noted that indirect interconnection of two telecommunications carriers satisfies the 1996 Act.[10] According to Arch, indirect interconnection would satisfy the 1996 Act because even though the carriers are not directly interconnected, the carriers are connected to the PSTN and, as a

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[7] The Public Utility Commission of Texas and the Alabama Public Service Commission urged the Commission to the contrary, stating that all telecommunications carriers should be required to interconnect with other telecommunications carriers. *See* Comments of the Public Utility Commission of Texas, at 34; Comments of the Alabama Public Service Commission, at 33. However, neither of these parties supported their assertions and the Commission should reject these unsupported assertions.

[8] NCTA Comments at 18.

[9] Comments of Sprint Corporation, at 88-89.

[10] Comments of Arch Communications Group, Inc., at 18-19.

result, the subscribers of any carrier that is interconnected to the PSTN can reach the subscribers of any other carrier that is also interconnected to the PSTN.[11/]

8. Omnipoint Corporation ("Omnipoint") noted that broadband PCS operators should be permitted to satisfy the interconnection obligation contained in the 1996 Act by connecting with the PSTN.[12/] According to Omnipoint, "[o]nce connected to the PSTN, any other telecommunications carrier has either direct or indirect access to the broadband PCS operator's network."[13/] As Omnipoint noted, commercial mobile radio service ("CMRS") operators already must connect to the PSTN under Section 332(d) of the Commission's Rules.[14/] Therefore, allowing CMRS operators to satisfy the 1996 Act's interconnection requirement by connecting to the PSTN will not impose any additional burdens on CMRS operators.

9. Metricom believes that its proposal that the Commission forbear from requiring non-dominant telecommunications carriers to interconnect satisfies NCTA's, Arch's and Omnipoint's concerns without harming competition. Indeed, forbearance simply carries these parties' reasoning to its logical conclusion. Non-dominant telecommunications carriers will interconnect whenever market and customer demand drive them to do so. Therefore, forbearing from requiring non-dominant telecommunications carriers to interconnect is a better approach than simply permitting

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[11/] *Id.*

[12/] Comments of Omnipoint Corporation (hereinafter "Omnipoint Comments"), at 9.

[13/] *Id.* at 10.

[14/] Omnipoint Comments at 10, n.10, *citing* 47 U.S.C. § 332(d)(1) and (2) (1996).

them to interconnect indirectly through the PSTN.

WHEREFORE, Metricom respectfully requests that the Commission exercise its authority under Section 10 of the 1996 Act to refrain from imposing interconnection requirements upon non-dominant telecommunications carriers.

Respectfully submitted,

METRICOM, INC.

By: Henry M. Rivera (TC)

Henry M. Rivera
Larry S. Solomon
J. Thomas Nolan
GINSBURG, FELDMAN & BRESS, CHARTERED
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 637-9000

Its Attorneys

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