

*The Commonwealth of Massachusetts  
Office of the Attorney General*

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SCOTT HARSHBARGER  
ATTORNEY GENERAL

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October 25, 1996

RECEIVED

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Office of the Secretary  
Federal Communications Commission  
1919 M. Street, N.W., Room 222  
Washington, D.C. 20554

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**RE: Opposition To Local Phone Company Requests to Charge Consumers For Keeping Phone Numbers When Switching Companies/  
Further Notice and Proposed Rulemaking In The Matter of Telephone Number Portability, CC Docket No. 95-116.**

Dear Secretary:

I am writing in strong opposition to a reported request by NYNEX to charge their customers additional fees for implementing a new law which allows customers to keep their existing phone numbers if they decide to switch telephone companies. As you know, the 1996 Federal Telecommunications Act requires local telephone companies to allow customers to keep their phone numbers when they change telephone companies. As recently reported in the Wall Street Journal (see attached article), at least one company, NYNEX, is seeking to assess a surcharge of \$1 to \$2 per customer for costs NYNEX alleges they will incur in implementing this "phone number portability" system. As the representative of consumer interests in telephone rates charged in the Commonwealth of Massachusetts, I urge you to prohibit NYNEX's reported request for a consumer surcharge.

Pursuant to the Federal Communications Commissions' ("FCC") Further Notice and Proposed Rulemaking ("Notice"), the FCC will soon issue its report and order regarding the recovery of costs for implementing "phone number portability." In its Notice, the FCC tentatively concluded that section 251(e)(2) of the Telecommunications Act of 1996 does not address recovery of costs for phone portability from consumers, but only the allocation of such costs to telephone service providers, such as NYNEX. Notice, ¶ 209.

I concur with the FCC's tentative assessment of phone number portability costs, and I strongly recommend on behalf of consumers that the FCC allocate these costs to telephone companies. In the Commonwealth, the Department of Public Utilities currently regulates telephone rates charged by NYNEX under a price cap incentive plan. Therefore, in the event that NYNEX might attempt to recover number portability costs through the exogenous factor in its regulatory plan, I would like the opportunity to have my office investigate and scrutinize these costs very closely.

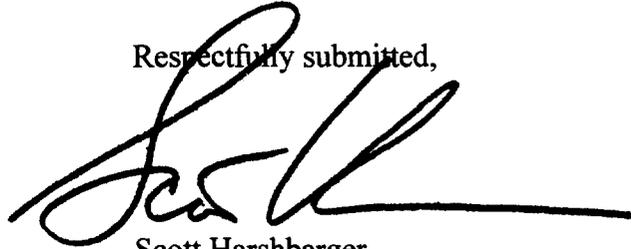
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In sum, I respectfully request that NYNEX be prohibited from assessing surcharges directly to consumers for phone number portability costs, and that the FCC instead allocate these costs to NYNEX and other carriers and allow the states to protect consumers' interests.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott Harshbarger', with a long horizontal line extending to the right.

Scott Harshbarger  
Attorney General

RID

# MARKETPLACE

**Travel:** Autumn outlook—forget about special deals and discounting **Page B9.**

**The Home Front:** Pilfered pumpkins, a lost giraffe and other garden tales **Page B10.**

## Phone Companies Call for Customer Surcharge

By **BRYAN GRULEY**

Staff Reporter of THE WALL STREET JOURNAL

The new telecommunications law is supposed to increase competition and lower the price of local telephone service. But some of the nation's biggest phone

### TELECOMMUNICATIONS

companies want to remind customers that competition itself has a price — in the form of a new surcharge on their monthly bills.

Local phone companies are lobbying the Federal Communications Commission for a charge to cover the cost of enabling customers who switch to rival carriers to keep their old phone numbers. No one's sure how big the charge might be, but Nynex Corp., one of the Baby Bells, estimates \$1 to \$2 a month per phone line—whether a customer elects to change carriers or not.

Long-distance companies, consumer advocates and other opponents are howling that the proposed charge is just a gimmick to offset the drain local phone companies could suffer as rivals invade their monopolies. They point out that Nynex currently has more than 16 million access lines, so even a \$1-a-month surcharge would generate nearly \$200 million

a year, allowing the company to recoup its costs in as little as two years.

"If we see [a surcharge], we will complain loud and long," says Ruth Michalecki, director of telecommunications at the University of Nebraska.

Other critics say the surcharge would make a mockery of telecommunications deregulation. "Consumers are going to be outraged," says Gene Kimmelman, co-director of the Consumers Union's Washington office. "It makes no sense that you have to raise consumer bills in order to open up the phone network to competi-

tion."

Many customers are reluctant to change a phone number that is familiar to family and friends, or is printed on business cards, stationery and advertising, which may discourage them from switching to a new phone company. So the telecommunications law requires all carriers to offer "number portability." "It's crucial to true competition," says FCC Chairman Reed Hundt.

But how the costs are tallied, who incurs them and how they'll be recovered are the subjects of a furious industry debate at the FCC. The agency has been flooded with comments from every major player in the business, including cable-television and wireless-communication companies, all jockeying for every possible advantage in the new, deregulated era. AT&T Corp., the long-distance giant, puts the industry's potential cost of technology changes needed for portability at \$1.9 billion, spread over five years. Nynex's guess is closer to \$4 billion, with its own share at \$400 million.

Today, the switches that route calls through the nation's telephone network know instantly where to send them. The first three digits identify a switch operated by the local phone company in a particular

### A SURCHARGE IS

the easiest, most explicit and surest way of a direct, dollar-for-dollar recovery.

—Jeffrey Ward, Nynex

**C**ONSUMERS are going to be outraged. It makes no sense that you have to raise bills in order to open up the phone network to competition.

—Gene Kimmelman, Consumers Union

area code. That system must change to accommodate customers who want to buy service from a new local carrier while keeping their existing numbers, rather than be assigned new ones.

The likely solution is a collection of centralized databases containing all phone numbers in a given region or state. When  
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### TRAVEL

### AUTOS

Comfort Comes Back to Business Travel Federal Reserve

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## TECHNOLOGY

# Phone Companies Are Seeking Surcharge

*Continued From Page B1*

someone makes a call, the signal will zip first to a database to determine where the call should go. The extra costs lie in creating these databases and upgrading network software to use them.

The Baby Bells and other local phone companies will incur most of these costs, because they own most of the nation's local phone networks. Unless they can recover those costs, they say, long-distance companies and other new rivals will gain an unfair edge — countering a stated congressional desire for all carriers to share the expense "on a competitively neutral basis."

Customers will pay for number portability one way or another, and a surcharge is "the easiest, most explicit and surest way of a direct, dollar-for-dollar recovery," says Jeffrey Ward, vice president of federal policy for Nynex. He says the surcharge would be more than offset by overall lower prices for local and long-distance service, and for features such as call-forwarding and Internet access.

Monthly bills could even label the charge a government mandate. While the companies support the concept of portability, "we think the public has a right to know" that they aren't the ones dictating its costs, says Mary McDermott, vice president of legal and regulatory affairs for the U.S. Telephone Association, a lobbying group for the Bells and some 1,100 other local phone companies.

The FCC isn't likely to act before year end. But Mr. Hundt, the chair-

man, already doesn't like the surcharge idea. "The billing envelope should not be the battleground for competition," he says. "Bills are unpleasant enough already."

Opponents say local phone companies are simply angling for a guaranteed way to subsidize technical upgrades they'll have to make anyway. "They have every incentive to inflate the costs," says Len Sawicki, a Washington lobbyist for MCI Communications Corp. "They want to take as long as possible . . . and dump as many costs on others [as] they can."

Aside from the industry-shared cost of building databases, critics say, local phone companies should build their own portability costs into their rates — if they dare. "The competitive marketplace is going to put pressure on rates to go down," says R. Gerard Salemme, a lobbyist for AT&T. "The surcharge won't survive."

The new competitors also suspect that the levy is a way to discourage customers from switching carriers. Absurd, says Ms. McDermott, the lobbyist for local companies. "We think it will encourage people to switch" because it would be displayed on every carrier's bill, she says. Building these charges into rates isn't practical in states where rates are capped by regulators, she adds.

Supporters of the charge say it wouldn't last more than five years, and possibly much less. "We can't see any reason to continue to charge customers once [the cost] has been paid," a Nynex spokeswoman said. But some companies may

want to retain a nominal charge for maintaining the networks. SBC Communications Inc., parent company of Southwestern Bell, thinks a monthly charge of 20 cents or less should cover it.

But critics doubt the charge will ever end. Some carriers, they point out, still charge customers extra each month for touch-tone phone service, even though they recovered the costs of converting from rotary dials years ago. Mr. Kimmelman, the consumer advocate, says once extra charges appear on bills, "they often remain there indefinitely."

### INTELLIGENT ELECTRONICS INC.

## Narrowed \$2.4 Million Loss Is Posted for Latest Period

Intelligent Electronics Inc. reported a narrower fiscal second-quarter loss of \$2.4 million, or seven cents a share. That was still wider than an analysts' consensus estimate of a loss of four cents a share, as reported by First Call. In the year-earlier quarter, the Exton, Pa., computer reseller reported a loss of \$5.9 million, or 19 cents a share. Revenue in the quarter ended Aug. 3 fell 2% to \$866.7 million from \$881.6 million. The second-quarter loss marks the eighth time in the past nine quarters that the once highflying computer company, which has been plagued by operational problems and management changes, has reported a loss. On the Nasdaq Stock Market yesterday, Intelligent Electronics closed at \$7.125, unchanged.