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Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of	)	
The Use of N11 Codes and Other Abbreviated Dialing Arrangements	)	CC Docket No. 92-105

COMMENTS OF AT&T CORP.

Mark C. Rosenblum
Peter H. Jacoby
James H. Bolin, Jr.

Its Attorneys

295 North Maple Avenue
Room 3250J1
Basking Ridge, NJ 07920
(908) 221-4243

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SUMMARY

AT&T strongly endorses the Commission's decision to reserve the 711 code for telecommunications relay service ("TRS"). However, the FNPRM's tentative conclusion that nationwide implementation of 711 for TRS access should occur within three years is infeasible given the present state of technology, and unwise as a matter of policy. Among other technical issues that carriers must resolve, TRS centers serve both voice users and text customers who use equipment that employs a variety of transmission protocols. In order to make TRS services accessible via a single number, carriers must design and implement a platform that can identify the transmission parameters of each incoming call and route it accordingly -- without unacceptably increasing call set-up time or causing the loss of features that TRS users currently value.

AT&T also supports the Commission's tentative conclusion that the sale of N11 codes would not be in the public interest. In any event, such a sale of N11 codes or other abbreviated dialing arrangements would raise questions as to the Commission's statutory authority.

Finally, the Commission should adopt its proposal to transfer administration of local uses of N11 codes from incumbent LECs to the North American Numbering Plan Administrator ("NANPA") concurrently with the transfer of central office code administration functions to that entity, or at an earlier date. Because the NANPA will be a neutral

party, the proposed transfer of functions will eliminate the risk that an ILEC might attempt to administer N11 codes in a way that would improperly advantage itself or its customers.

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Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits these comments on the Commission's FNPRM in this proceeding.[1]

I. The Commission's Proposed Implementation Schedule For The 711 Code For TRS Is Not Technically Feasible

In its order concluding the initial phase of this proceeding, the Commission found that the 711 abbreviated dialing code should be assigned for TRS use to "support three digit access to TTY by people with hearing or speech disabilities."[2] AT&T fully supports the Commission's decision to reserve that dialing scheme for TRS use at this time; as the order points out (¶ 56), N11 codes are a scarce resource,

[1] The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, FCC 97-51, released February 19, 1997 ("First Report and Order" or "FNPRM").

[2] Id., ¶ 55.

and failure to set aside that code now could preclude its use for TRS purposes at a later date.

However, as the Commission also recognizes (¶¶ 55, 67), reserving the 711 code for TRS leaves open serious technical, operational and cost issues posed by implementation of that dialing protocol. Although the FNPRM seeks comment on these matters, it tentatively concludes (¶ 68) that "nationwide implementation of 711 for TRS access should occur within three years" of the February 19 order's effective date. Given the present state of technology, AT&T submits that the proposed implementation schedule is both infeasible and, in all events, unwise as a matter of policy.

Use of a single number (whether 711 or another dialing sequence) poses a host of difficult technical pitfalls for TRS providers. For example, TRS centers must serve both voice users and text customers who use equipment that employs a variety of transmission protocols. Baudot, the most common protocol now in use, transmits at a maximum of 60 baud and accounts for approximately 80 percent of TRS calls. The ASCII protocol, which has speeds ranging from 300 baud to 2400 baud and beyond, accounts for part of the remaining calls. However, additional protocols, such as even higher speeds of ASCII and Ultratec, Inc.'s Turbo Code™ protocol, continue to be introduced and to gain acceptance in the marketplace. Moreover, TRS users with visual impairments employ telebraille equipment with its own unique transmission parameters.

TRS centers now commonly serve this multiplicity of transmission characteristics by deploying separate toll-free inbound numbers for voice callers, Baudot and ASCII. This procedure provides prompt interconnection to the TRS center, and minimizes call set-up time. Indeed, in March 1995 the Industry Numbering Committee of the Industry Carriers Compatibility Forum ("ICCF") adopted uniform nationwide toll-free numbers for voice, ASCII and Baudot to facilitate convenient customer access to TRS centers.

However, with mandatory deployment of the 711 code, all of these call types would be funneled to the same number. In order to properly process that traffic, TRS providers would be required to develop and deploy a platform to identify the transmission parameters of each incoming call prior to routing it to a Communications Assistant. No such system currently exists.

Implementing such a platform would not only add greatly to the cost of processing TRS traffic but would inevitably add substantially to call set-up time, thereby degrading service and reducing customer satisfaction with relay service. Because the platform would sequentially attempt to identify the transmission protocol used with an incoming call,[3] customers using other transmission parameters

[3] Based on actual usage, statistical probability indicates that the best method of answering a relay call using a single number and with no prior knowledge of the customer would be to attempt first Baudot, then voice, and then ASCII and other protocols.

could experience answer performance delays in excess of the standard prescribed by the Commission's TRS rules.[4]

Reliance on the single number access method could also impair other beneficial customer service features available with current TRS service arrangements. Many TRS providers now use "customer profiles" that allow them to identify a TRS customer and his or her service preferences, based on the caller's automatic number identification ("ANI"). There is no assurance that this capability can be successfully preserved if TRS calls must first be intercepted by a platform such as the one described above.

Deployment of the 711 code is also certain to be costly. The changes in network architecture described in the FNPRM to deploy an "N11 gateway" are generally similar to an N11 proposal offered in 1994. AT&T estimated that the cost of development associated with that proposal approached $10 million, and would take a substantial time to complete. These estimates remain applicable to the Commission's current proposal.

In light of these considerations, the Commission should not attempt to prescribe a specific schedule for implementing the 711 code for TRS. Instead, the Commission should continue periodically to monitor technical and other marketplace developments that may affect the eventual deployment of single number 711 access, until a sufficient

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[4] See 47 C.F.R. § 64.604(b)(2)(requiring that 85 percent of TRS calls be answered within 10 seconds).

body of knowledge is available regarding the technical feasibility of that procedure. The Commission already has followed this same procedure successfully in addressing the technical and operational barriers to deployment of TRS for coin sent-paid traffic. Such an approach to 711 code implementation will best serve the interests of TRS customers by assuring that single number nationwide access will, when achieved, provide TRS users convenient, high quality service without degradation of current service characteristics.

II. Sale Of Abbreviated Dialing Arrangements Would Not Be In The Public Interest, And Would Raise Questions Concerning The Commission's Statutory Authority

AT&T strongly endorses the Commission's tentative conclusion (¶ 71) that the sale of N11 codes would not be in the public interest. Only two usable N11 codes -- 211 and 511 -- remain available for national uses in the wake of the First Report and Order. As the order recognizes, N11 codes are both a scarce and extremely valuable resource. Moreover, "[i]n order to achieve the maximum public benefit from the allocation of particular codes to certain services, those codes must be allocated in a consistent manner on a nationwide basis." (¶ 58).

The Commission has long recognized that telephone numbers are a public resource, and that assignees do not "own" codes or numbers.[5] Industry numbering policies have also "consistently and unambiguously" provided that N11 code

[5] See, e.g., FNPRM, ¶ 71 and sources cited therein.

assignments are subject to termination on short notice,[6] so as to allow for superseding public uses. In light of N11 codes' scarcity and the rapid pace of change in both technology and telecommunications markets, it would be short-sighted to foreclose future uses of the two remaining N11 codes for national applications intended to promote the public interest.

In any event, it is questionable whether the Commission possesses the authority to sell the right to use N11 codes. In this regard, numbering resources can be closely analogized to the electromagnetic spectrum, in that both spectrum and usable numbers are scarce resources essential to modern telecommunications technologies, and the Commission is charged with administering both consistently with the public interest and congressional intent. The Commission's authority to conduct spectrum auctions, however, derives from a specific statutory provision permitting that practice, rather than from its general powers to manage spectrum. There is no comparable statutory authorization for the sale of numbering resources.

Specifically, Congress first authorized the Commission to award licenses to use electromagnetic spectrum via auctions as part of the Omnibus Budget Reconciliation Act of 1993, which added subsection (j) to 47 U.S.C. § 309. The plain language of that provision indicates that Congress sought to grant a power that it did not believe the Commission possessed at that time, rather than merely confirming the

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[6] Id., ¶ 64; see also id., ¶ 41.

Commission's existing authority: "[T]he Commission shall have the authority ... to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection."[7] In addition, § 309(j) expressly provides that the Commission's authority to conduct spectrum auctions pursuant to that section "shall expire September 30, 1998."[8]

Section 251(e)(1) of the Telecommunications Act of 1996 grants the Commission express authority to administer numbering resources, including N11 codes and other abbreviated dialing arrangements. However, nothing in that Act or in the Communications Act of 1934 authorizes the sale of those resources, unlike § 309(j)'s unequivocal grant of authority to conduct spectrum auctions.[9] Congress clearly expressed its intent to authorize the sale of public telecommunications

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[7] 47 U.S.C. § 309(j)(1) (emphasis added). Similarly, § 309(j)(10) required certain conditions to be met before the Commission could conduct spectrum auctions, further indicating that it did not have that power except pursuant to the specific terms of § 309(j).

[8] 47 U.S.C. §§ 309(j)(11). See also id. § 309(j)(10)(B) (providing that authority to conduct spectrum auctions would sunset in 1995 if certain conditions were not met).

[9] Moreover, the fact that the Commission's enabling statutes do not expressly withhold the power to auction numbering resources provides no support for the claim that Congress intended to grant that authority by implication. "To suggest ... that Chevron step two is implicated any time a statute does not expressly negate the existence of a claimed administrative power (i.e., when the statute is not written in 'thou shalt not' terms), is both flatly unfaithful to the principles of administrative law ... and refuted by precedent." Railway Labor Executives' Assoc. v. NMB, 29 F.3d 655, 671 (D.C. Cir. 1994) (en banc), cert. denied, 115 S. Ct. 1392 (1995); accord, e.g., Ethyl Corp. v. EPA, 51 F.3d 1053, 1060 (D.C. Cir. 1995).

resources -- i.e., electromagnetic spectrum -- when that was its aim. It plainly has not done so with respect to the sale of numbering resources.

III. Administration Of N11 Codes For Local Use Should Be Transferred To The NANP Administrator No Later Than Concurrently With Transfer Of Control Over Central Office Codes

Finally, the FNPRM tentatively concludes (¶ 75) that administration of N11 codes for local use should be transferred from incumbent LECs to the NANP administrator ("NANPA"), concurrently with the transfer of central office code administration functions to that entity. AT&T supports this proposal or, in the alternative, the transfer of N11 administration to the NANPA at an earlier date. As the Commission correctly concludes in its First Report and Order in this proceeding, N11 codes are a national resource, and should be administered in a uniform fashion. Establishing a single, central body to oversee N11 codes will substantially further this goal. In addition, transferring N11 administration to the NANPA will prevent any potential anticompetitive conduct by ILECs that might seek to advantage themselves or their customers through their control over local uses of N11 codes.

CONCLUSION

For the reasons stated above, the Commission should modify its proposals for the administration of 711 and other N11 codes.

Respectfully submitted,

AT&T CORP.

By _____

Mark C. Rosenblum
Peter H. Jacoby
James H. Bolin, Jr.

Its Attorneys

295 North Maple Avenue
Room 3250J1
Basking Ridge, NJ 07920
(908) 221-4243

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