

2025 RELEASE UNDER E.O. 14176

FCC MAIL SECTION



Mar 28 10 15 AM '97
PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

DA 97-557

News media information 202/418-0500 Fax On-Demand 202/418-2830 Internet: <http://www.fcc.gov> [ftp.fcc.gov](ftp://ftp.fcc.gov)

Released: March 14, 1997

**PLEADING CYCLE ESTABLISHED FOR COMMENTS ON
PETITION OF MCI FOR DECLARATORY RULING
THAT NEW ENTRANTS NEED NOT OBTAIN SEPARATE LICENSE OR
RIGHT-TO-USE AGREEMENTS BEFORE PURCHASING UNBUNDLED ELEMENTS**

CCBPol 97-4; CC Docket No. 96-98

On March 11, 1997, MCI filed a petition for declaratory ruling requesting the Commission to issue a declaratory ruling that any requirement imposed by an incumbent local exchange carrier (LEC) or by a state or local government that a requesting telecommunications carrier obtain separate license or right-to-use agreements before the requesting carrier may purchase access to unbundled network elements violates sections 251 and 253 of the Communications Act of 1934, as amended (the Act). MCI also asks the Commission to issue a declaratory ruling that the Act's nondiscrimination requirement requires an incumbent LEC to provide requesting telecommunications carriers the same rights to intellectual property that the incumbent LEC enjoys.

We are assigning file number CCBPol 97-4 to this proceeding. This issue MCI raises was also raised in a Petition for Reconsideration of the *First Report and Order* in CC Docket No. 96-98¹ that was filed by Local Exchange Carrier Coalition. Therefore, commenters must include both the docket number and the file number on all pleadings, and should file copies on both proceedings.

In order to build as complete a record as possible, we encourage parties to comment on the following questions: (1) Does providing access to unbundled network elements implicate the intellectual property rights of equipment vendors or other third parties? Why or why not? We urge parties to provide specific supporting information, including descriptions of the types of provisions included in existing contracts between incumbent LECs and third parties. (2) Does providing access to network elements other than access to vertical features of unbundled switches implicate intellectual property rights of equipment vendors or other third parties? Why or why not? (3) Does providing access to services for resale, in accordance with section 251, implicate intellectual property rights of equipment vendors or other third parties? Why or why not? (4) What are the potential burdens on requesting telecommunications carriers if they are required to

¹ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) (*First Report and Order*).

independently negotiate licensing agreements with equipment vendors or other third parties before obtaining access to unbundled network elements? Are there ways to eliminate or reduce those burdens on requesting telecommunications carriers? In addition, we encourage parties to comment on MCI's proposal that incumbent LECs bear the burden of negotiating any extension or augmentation of intellectual property rights that might be implicated in interconnection agreements.

Interested parties should file comments on MCI's petition by **April 15, 1997**, and reply comments by **May 6, 1997**, with the Secretary, FCC, 1919 M Street, N.W., Washington, D. C. 20554. A copy should also be sent to Janice Myles, Common Carrier Bureau, FCC, Room 544, 1919 M Street, N.W., Washington, D. C. 20554, and to the Commission's contractor for public service records duplication, ITS, Inc., 2100 M Street, N.W., Suite 140, Washington, D. C. 20037. Parties filing comments should include the Policy Division internal reference number, **CCBPol 97-4, as well as the docket number, CC Docket No. 96-98**, on their pleadings. MCI's petition is available for inspection and copying during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D. C. 20554, as well as in the Common Carrier Bureau's Public Reference Room, Room 575, 2000 M Street, N.W., Washington, D. C. 20554. Copies can also be obtained from ITS by calling (202) 857-3800. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading.

We will treat this proceeding as non-restricted for purposes of the Commission's *ex parte* rules. See generally 47 C.F.R. §§ 1.1200-1.1216. Parties may not file more than a total of ten (10) pages of *ex parte* submissions, excluding cover letters. This ten-page limit does not include: (1) written *ex parte* filings made solely to disclose an oral *ex parte* contract; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; or (3) written material filed in response to direct requests from Commission staff. *Ex parte* filings in excess of this limit will not be considered as part of the record in this proceeding.

Common Carrier Bureau contact: Kalpak Gude, (202) 418-1580.