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Federal Communications Commission
Office of Secretary

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, NW - Room 222
Washington, DC 20554

Re: Ex Parte - CC Docket No. 95-116, Telephone Number Portability

Dear Mr. Caton:

Today Harry Sugar, James Bolin and I, of AT&T, met with Neil Fried, Lloyd Collier, Lenworth Smith, John Scott, and Christopher Barnekov of the FCC's Common Carrier Bureau Competitive Pricing Division. The purpose of this meeting was to discuss AT&T's position on various cost recovery mechanisms proposed by incumbent local exchange carriers and whether rules promulgated in this proceeding would ever result in an unconstitutional takings. The attached documents were used in the discussion.

Two copies of this Notice are being submitted to the Secretary of the FCC, in accordance with Section 1.1206(a)1.

Sincerely,

Attachments

cc: Neil Fried
Lloyd Collier
Kenworth Smith
John Scott
Christopher Barnekov

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Recycled Paper

Costs Must be Borne on a Competitively Neutral Basis

- The Telecommunications Act requires number administration and LNP costs to "be borne by all telecommunications carriers on a competitively neutral basis."
  - RBOCs have incorrectly interpreted this as mandating recovery from all telecommunications carriers on the same basis.
  - Authority to recover costs from all carriers is necessary to encompass potential costs for all aspects of number administration and related issues.

- The Commission already has defined what constitutes a "competitively neutral" cost recovery mechanism:
  - One service provider should not be given an appreciable, incremental cost advantage over another service provider.
  - Should not have a disparate effect on ability of competing service providers to earn normal returns on their investments.

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Telephone Number Portability Cost Recovery

IXC Local Number Portability Cost Allocation

IXCs Should Not be Required to Subsidize Local Exchange Carriers

- LNP is purely a function of local exchange service; it is required for full and fair *local exchange competition.*
- LNP is not related to the provision of interexchange service or competition in the interexchange market.

  - Nevertheless, IXCs <u>will</u> incur additional costs to accommodate local number portability. IXCs must choose to either:
    - . pay LECs to perform originating or terminating carrier queries, or
    - . perform their own queries as the "N-1" carrier in their networks.
  - N-1 carrier query is the most efficient and cost-effective method of routing calls and is in the public interest.
    - . However, IXCs will incur their own costs to upgrade their networks, with <u>no</u> corresponding benefit to IXC competition.

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IXC Local Number Portability Cost Allocation

- It is not competitively neutral to allocate LECs' LNP costs to IXCs.
  - Additional costs to IXCs without corresponding benefits will negatively affect their returns in a highly competitive market -- and could lead to price increases.
  - IXCs should pay direct costs of Type 1 expenses and bear their own Type 2 expenses.

- Similarly, it is not competitively neutral to allocate interim number portability costs to IXCs and wireless carriers.
  - IXCs and wireless carriers do not participate in the provision of interim number portability, and derive no benefit from it.

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LEC Local Number Portability Cost Allocation

LECs Will Derive All The Benefits Of Local Number Portability And Each Should Bear Its Own Costs

- CLECs benefit from ability to win ILECs' customers without requiring a telephone number change.

- RBOCs benefit by fulfilling one of the Section 271 "checklist" requirements for in-region interLATA service.

- All LECs benefit by being able to win (or win back) customers from competing LECs without requiring a telephone number change.

- Contrary to ILEC arguments, expenditures for LNP are not for the benefit of their competitors, but implement 1996 Act's mandate to promote local exchange competition

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LEC Local Number Portability Cost Allocation

It is <u>not</u> competitvely neutral to allocate LNP costs among LECs

- Incents ILECs to include costs of other network upgrades in LNP expenses.
- Gives less modern ILECs an appreciable, incremental cost advantage over more modern ILECs whose customers already have paid for network modernization.
- Imposes additional costs on more efficient ILECs with no corresponding benefit -- will negatively effect their returns as local competition is introduced.
- Additional costs to CLECs will impact decisions on local market entry.
- CLECs opting to delay entry would benefit from cost avoidance.

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Most RBOCs Agree: Each LEC Bears Its Own Cost

This Approach Will Provide the Incentive for Efficient Deployment of the LNP Capability

- PacTel (8/16/96 comments):
  - *"Type 2 costs should not be pooled and allocated. Rather, each carrier should bear its own cost."*
- Ameritech (8/16/96 comments):
  - *"A mechanism involving pooling is administratively expensive and may incent and reward inefficiency."*
- U S West (8/16/97 comments):
  - *"Application of the 'competitively neutral' standard requires each provider of telephone exchange service -- incumbent or facilities-based entrant -- to recover its number portability costs from its own end-user customers and not from other facilities-based carriers."*
- SBC (4/25/97ex parte):
  - *SBC Recommendation 2 - Each Carrier Recovers Its Own Costs: "It closely reflects the realities of a competitive environment" and "This arrangement better ensures that carriers will deploy more efficiently"*

Conclusions on LNP Costs

It is competitively neutral for each LEC to bear its own costs of LNP

- Type 2 costs per access line for Tier 1 ILECs are essentially equivalent -- thus, none will gain an appreciable incremental advantage.
- CLECs building local exchange facilities initially will incur higher costs per access line than ILECs, and will move toward ILECs' unit costs as they attract customers.
  - SBC (4/25/97 ex parte) incorrectly calculates that SWBT's cost per access line is greater than the CLEC's cost per access by including only the costs for LRN software and excluding all other costs.
  - When just the costs of SCPs are included at $2.5M per pair (two for SWBT and one for the CLEC), the costs per access line using SBC's model are $3.11 for SWBT and $21.31 for the CLEC.
- No disparate effect on Tier 1 ILECs' ability to earn a normal rate of return -- costs will be more than offset by entry into in-region interLATA market with no cost obligation for Feature Group D.

Takings Issues

"Takings" arguments raised by some ILECs are inapposite

- It is impossible to evaluate the effect of rules that have yet to be promulgated.

- There is no basis for claims that a competitive local market will not allow cost recovery.
  - ILECs' Type 2 costs are roughly proportional to the number of access lines, and are lower per access line than the CLECs.

- A taking can occur only due to "total effect" of regulation on ILECs' business, not based on costs that may be imposed by individual measures. *FPC v. Hope Nat. Gas*, 320 U.S. 591, 602 (1944).