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Federal Communications Commission
Office of Secretary

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
Policies and Rules Pertaining to	)	CCB/CPD 97-19
Local Exchange Carrier	)	RM - 9085
"Freezes" on Consumer Choices of	)	
Primary Local Exchange or	)	
Interexchange Carriers	)	

COMMENTS

BellSouth Telecommunications, Inc. ("BellSouth") hereby submits its comments on the Petition for Rulemaking filed by MCI Telecommunications Corporation ("MCI") in the above-captioned proceeding.

MCI requests the Commission to initiate a rulemaking proceeding for the purpose of regulating the solicitation by carriers of local exchange customers, urging them to "freeze" their chosen primary interexchange and local exchange carrier(s). MCI contends that "freeze" programs are utilized by local exchange carriers ("LECs") not for the alleged purpose of preventing slamming[1] but "as a strategic tool to lock in their own customers and to impede effective competition, particularly in the local and intraLATA toll markets they currently dominate."[2]

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1 Slamming is the common term used when a customer's chosen primary carrier is changed without the customer's consent or authorization.

2 Petition at 1.

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In reviewing and acting upon MCI's Petition, the Commission should bear in mind several important points. First, the concern of LECs, such as BellSouth, to reduce the problem of slamming is a legitimate concern. The Commission's own actions have demonstrated that slamming is a serious problem which should be dealt with firmly.[3] Moreover, the incidence of slamming complaints appears to be rapidly increasing, at least for BellSouth's customers.[4] The problem may be exacerbated as the level of competition in both the local exchange and toll arenas increases. The offering of a freeze option to local exchange service subscribers is one way in which to reduce the incidence of slamming, and BellSouth's experience is that customers which have experienced an occurrence of slamming are pleased to have the option of having their carrier choice "frozen" until the customer itself provides otherwise. Thus, MCI's attempt to discredit freeze programs as pure "spin" tactics to cover up alleged monopolistic tactics must be discounted.

Second, the complaints which MCI has regarding the particular freeze programs of particular LECs, i.e., of Ameritech and SNET, do not necessarily apply to other LECs. Not all LECs aggressively market their freeze programs in the manner described by MCI or limit the freeze program to customers which have chosen the LEC as their primary intraLATA provider. Nor do all LECs make it difficult to change primary providers once the "freeze" is in effect. For instance, BellSouth offers a 3-way conference call option between BellSouth, the local exchange

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[3] *Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, 10 FCC Rcd 9560 (1995). See also, *Slamming an In-Depth Look*, Federal Communicators Commission publication on slamming.

[4] In the first quarter of 1997, slamming incidents in the BellSouth region numbered 48,653. This is an increase over first quarter 1996 of 20,561.

customer and new primary carrier to assure that PIC changes can be made with ease. This option is made available on a 24-hour a day basis to meet the changing demands of BellSouth's local exchange service customers.

Third, the Telecommunications Act of 1996 ("1996 Act") authorized the Commission to promulgate rules regarding the manner in which a local exchange customer's change in its selection of a primary carrier can and must be accomplished.[5] This authority includes the prescription of rules not only regarding primary carrier selection for interstate toll services, but also intrastate toll as well as local exchange services. Although the Commission already has rules regarding how changes in a primary interexchange carrier can be accomplished,[6] it has not established rules applicable to changes in the customer's selection of its primary intrastate intraLATA toll or local exchange provider. The issues raised by MCI's Petition, as well as MCI's proposed new rules, are inextricably related to the overall rules which the Commission must promulgate to meet its obligations under Section 258 of the 1996 Act and, thus, the Commission should consider all such issues in the same proceeding. In such proceeding, the Commission should consider the issues raised in MCI's Petition, as well as overall slamming concerns, in the context of the existing and future competitive environment, including the impact of the new rules recently adopted by the Commission as a result of its Local Competition proceeding.[7]

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[5] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. Sec. 151 et seq.), Sec. 258.

[6] 47 C.F.R. Sec. 64.1100 et seq.

[7] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996), Order on Reconsideration, CC Docket No. 96-98, 11 FCC Rcd 13042 (1996), *petition for review pending and partial stay granted, sub nom.* Iowa Utils. Bd. v. FCC, 109 F.3d 418 (8th Cir. 1996).

In sum, BellSouth urges the Commission not to consider MCI's Petition in isolation from its upcoming rulemaking proceeding to effectuate the directive from Congress under Section 258 of the 1996 Act to prescribe rules to govern primary carrier selection for both interstate and intrastate toll as well as local exchange services.

Respectfully submitted,

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