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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

September 12, 1997

Mr. William F. Caton
 Acting Secretary
 Federal Communications Commission
 1919 M Street, N.W., Room 222
 Washington, D.C. 20554

BY HAND

Re: CC Docket No. 94-129 -- Comments
 of IXC Long Distance, Inc.

Dear Mr. Caton:

On behalf of IXC Long Distance, Inc. ("IXCLD"), enclosed please find an original and eleven (11) copies of IXCLD's Comments in the above-referenced matter. A diskette with IXCLD's Comments in Wordperfect 5.1 is also enclosed. Two (2) copies of IXCLD's Comments are also being sent to the Formal Complaints Branch, Enforcement Division, Common Carrier Bureau. Further, one copy of IXCLD's Comments is being provided to International Transcription Services, Inc. ("ITS"). Finally, a copy of IXCLD's Comments and a diskette with IXCLD's Comments in Wordperfect 5.1 is being provided to Ms. Cathy Seidel at the Common Carrier Bureau.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Gary L. Mann 1997
 Gary L. Mann

Enclosures

cc: Formal Complaints Branch -- 2 copies by U.S. Mail
 Ms. Cathy Seidel -- 1 copy, with diskette
 ITS -- 1 copy

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the)
Subscriber Carrier Selection)
Changes Provisions of the)
Telecommunications Act of 1996)
)
Policies and Rules Concerning)
Unauthorized Changes of)
Consumers' Long Distance)
Carriers)

CC Docket No. 94-129

COMMENTS OF IXC LONG DISTANCE, INC.

I. Introduction and Summary

IXC Long Distance, Inc. (IXCLD) is a non-dominant interexchange long distance provider. IXCLD provides service in the 48 contiguous continental United States as well as internationally. IXCLD currently acts as an underlying carrier for a large number of resale carriers. Accordingly, IXCLD stands to be directly impacted by the outcome of key aspects of this proceeding.

IXCLD wishes to make three points in responding to the Commission's invitation for comments.¹ First, with respect to application of the Commission's verification rules to in-bound calls, IXCLD proposes that each carrier be permitted to record the customer-initiated transaction that results in a primary carrier change. These recordings would serve as a record of the transaction and would assist in resolving in-bound slamming disputes.

Second, the proposed requirement that resellers notify customers when a change of underlying network provider is made will not protect against slamming, but will be unnecessarily costly for resellers and will serve to effectively thwart the benefits of long distance competition that consumers might otherwise receive. Accordingly, such a requirement ought not to be imposed or, if imposed, should be implemented in the least burdensome manner possible.

Third, primary carrier freezes are essentially anti-competitive. Thus, active solicitation of such freezes should be eliminated. To the extent primary carrier freezes already exist or are allowed to continue, the Commission should require affected carriers implementing the freeze to provide subscribers

¹ All cites in these comments are to the numbered paragraphs of the Commission's July 15, 1997 Further Notice of Proposed Rulemaking and Memorandum Opinion and Order on Reconsideration in CC Docket No. 94-129 [hereinafter cited as "NPRM"].

with passwords or personal identification numbers (PINs) for verification purposes. This would facilitate the ability of those customers to countermand the primary carrier freeze that the customer previously has implemented.

I. Application of Verification Rules to In-Bound Calls

The Commission believes that the public interest will be served by offering consumers who place calls to carrier sales or marketing centers the same protection under the verification rules as those consumers who are contacted directly by carriers.² As part of its rationale for the extension of this requirement, the Commission indicates that, without some form of verification, the consumer and the Commission both might otherwise have no record of the transaction that has resulted in the primary carrier change ultimately involved in an in-bound slamming dispute.³

Given the Commission's concern, and in response to the Commission's express invitation,⁴ IXCLD proposes that each carrier be permitted to make voice recordings of customer-initiated "in-bound" calls. In this manner, a record would be created that would serve the interests of both the customer and the stated goals of the Commission. Of course, it would be

² NPRM at ¶ 19.

³ Id.

⁴ Id. at ¶ 20.

incumbent on the carrier to inform the customer, in advance of the recording, that the customer's primary carrier change request will be recorded for purposes of verification. This would give the customer the option not to consent to such a recording, which would result in no primary carrier change being effectuated. IXCLD further proposes that voice recordings of this type be maintained for the same one-year period required for letters of authorization. Implementation of a voice recording verification option for in-bound calls would also reduce the administrative burdens and increased costs that affected carriers might otherwise have to incur.

II. Verification and Preferred Carrier Freezes⁵

IXCLD strongly believes that the active solicitation of primary carrier freezes is anti-competitive. In essence, these freezes serve primarily to handcuff customers to incumbent providers of interexchange or local exchange services. Having executed such freezes, many customers understandably may simply not wish to go through the process necessary to rescind the freeze even when the customer is desirous of switching carriers. Such customer inertia serves only to the benefit of the incumbent. Therefore, IXCLD urges the Commission to prohibit the further active solicitation of primary carrier freezes.

⁵ Id. at ¶¶ 21-24.

Regardless whether the Commission prohibits active solicitation of primary carrier freezes, thereby grandfathering existing freezes, or allows primary carrier freeze solicitation to continue, the Commission needs to simplify the process by which consumers can rescind such freezes. One way by which this could be accomplished would be to require those carriers that have or are soliciting such primary carrier freezes to issue passwords or personal identification numbers (PINs) to customers for purposes of freeze verification and rescission. Passwords or PINs would lessen the amount of administrative processing otherwise required to rescind a freeze and would have the competitively salutary effect of making it much easier for a "frozen" end user to change service to another carrier. Accordingly, while IXCLD believes, as stated above, that primary carrier freezes are anti-competitive and should be eliminated, the Commission should also take steps to facilitate the ability of consumers to rescind freezes.

III. Subscriber Notification of Underlying Carrier Change

The Commission has tentatively concluded that the public interest would be served by establishing a "bright-line" test to determine the circumstances under which a resale carrier must notify its customers that the resale carrier is or has changed its underlying carrier.⁶ As noted in the introduction to these comments, IXCLD currently acts as an underlying carrier

⁶ Id. at ¶ 39.

for a large number of resale carriers. Thus, IXCLD stands to be directly affected by the outcome of this particular issue.

Simply put, IXCLD believes that a requirement that all end users be notified when a resale carrier changes its underlying carrier will not only be extremely burdensome and costly to the resale carrier, but will also serve to thwart competition. As the Commission is aware, resale carriers routinely and constantly change underlying service providers based primarily on rates, which are often based upon the time of day the service is being provided. To impose a requirement on resale carriers that their customers be notified whenever an underlying carrier change is being made would in all likelihood cause resellers to substantially restrict, if not eliminate, underlying carrier selection changes. This, in turn, would have an adverse effect on the ultimate end user, because without the full benefit of the dynamics of competition that currently exist, end users will not get the benefit of lower rates that might otherwise have been made available to them.

Moreover, because resale carriers would be reluctant to change underlying carriers, those companies -- such as IXCLD and many others -- that provide underlying service to resellers, will find their ability to attract new resale carrier customers to be severely restricted. Consequently, in addition to consumers, underlying carriers will also be adversely affected, a potential

consequence on which the Commission has not yet focused. Accordingly, IXCLD urges the Commission to approach this matter with the utmost conservatism so as to not adversely affect consumers, resellers and those companies that provide underlying services to resellers.

IV. Conclusion

Affected carriers should be allowed to verify "in-bound" calls by means of voice recordings. Active primary carrier freeze solicitations should be abolished. To the extent such freezes are grandfathered or allowed to continue, consumers should be issued passwords or PIN numbers to facilitate their ability to rescind freezes. Resellers ought not to be required to notify end users whenever a change in underlying carrier is being made. To do otherwise will only serve to deprive end users of lower rates that might otherwise have been made available to them.

Respectfully submitted,



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Dated: September 12, 1997