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September 22, 1997

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FEDERAL COMMUNICATIONS COMMISSION
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BY HAND DELIVERY

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, Room 222
Washington, D.C. 20554

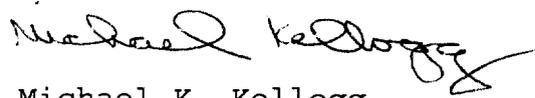
Re: In the Matter of Implementation of the Pay
Telephone Reclassification and Compensation
Provisions of the Telecommunications Act of
1996, CC Docket No. 96-128

Dear Mr. Caton:

Please find enclosed for filing an original and three copies
of the Ex Parte filing in the above captioned proceeding.

Please date-stamp and return the extra copy provided to the
individual delivering this package.

Sincerely,



Michael K. Kellogg

Enclosures

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September 22, 1997

Via Facsimile

Richard H. Rubin
Federal Government Affairs
AT&T
Room 1133M1
295 North Maple Avenue
Basking Ridge, NJ 07920

Re: ANI ii Coding Digits

Dear Mr. Rubin:

On behalf of the LEC ANI Coalition, I write to respond to your letter of September 15, 1997. We had expected to receive a response from MCI as well, and planned to reply to both letters at the same time. But we have still not heard from MCI and, given the shortness of time, it is necessary to press ahead toward a resolution of this matter.

The Coalition was, frankly, disappointed by your response. We proposed what we thought was a workable and fair solution to the problem of coding digits that would permit per-call compensation to go forward in a timely fashion. You have rejected that proposal without putting anything feasible in its place. I nonetheless write back in the hope that some workable solution may be achieved, and to explain why Flex ANI is not and cannot be the panacea your letter seems to believe it to be.

As an initial matter, I believe I should briefly point out why your legal position cannot be sustained. Under your reading of paragraph 64 of the Reconsideration Order, LECs must provide MCI and AT&T with Flex ANI for free. This simply cannot be reconciled with the result of 91-35, which rejected AT&T and MCI's demands that Flex ANI be provided universally, and instead allowed LECs to choose between Flex ANI and OLNS. Indeed, if Flex ANI had to be provided to carriers like AT&T and MCI for free, why would anyone ever purchase OLNS? Surely if the Commission had entirely reconsidered 91-35 in the few sentences that make up Paragraph 64, it would have so stated. Nowhere did it state that it had done so.

Nonetheless, we remain committed to establishing a workable solution to the purported needs you have identified. Accordingly, we focus the remainder of this letter on the facts that

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confront the industry, and at correcting any misunderstandings regarding the technologies, the costs, and the time frames that are feasible.

1. *Flex ANI Availability and Time Frames*

We should begin with your assertion that your "information indicates that Flex ANI is generally and readily available to LECs with equal access switches, and that it can be implemented promptly." Letter at 2. Your "information" is dead wrong. While your letter goes on at great length about the availability of Flex ANI on Lucent switches, you entirely fail to address *any* of the enormous *implementation* difficulties associated with Flex ANI (even setting aside for the moment the cost of replacing non-equal access and non-digital switches). It was precisely because of these implementation difficulties that so many LECs have chosen to comply with the Commission's order in 91-35 by installing OLNS rather than Flex ANI.

First, you assume that all LECs have installed recent generics on all of their Lucent 5ESS switches. See Letter at 2 (pointing out that Flex ANI became part of the generic release for 5ESS switches in 1991). But this is not true. For a variety of reasons, many switches have not had their switch generics upgraded. This means that, before anyone can even think of offering Flex ANI on these switches, the generic upgrades must be installed. As anyone familiar with digital switches is aware, this is a costly and time-consuming process, as an improper upgrade can put the integrity of the network at stake.

Second, Lucent 5ESS switches constitute a minority of total switches. For the other switches (which your letter almost entirely ignores), the software is not part of the generic. Instead, the LEC must conduct a separate installation process, which once again is time-consuming and complicated.

Third, your letter assumes that, once the software is installed, nothing more remains to be done. This again is false, and we were surprised to see a company with AT&T's technical competence make this mistake. Instead, after the software is installed, the systems engineers must do extensive *provisioning* and *translations* work. These are no small tasks.

Provisioning begins with adjustments to screening tables. For the 5ESS switch, for example, Flex ANI is currently provisioned at the "screening index level." Multiple classes of service (for example, COCOT lines and residential lines) often use the same screening index. Consequently, if the LEC were merely to assign a new code at the screening index level, more than just COCOT lines would be identified with the "70" code; residential and business lines potentially could be identified with that code as well. Consequently, an entirely new screening index must be created. Then classes of service must be separated, identified, and individually assigned to the new screening indices. This is an extremely labor-intensive process, and must be thoroughly tested for each switch and each line type.

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Even once that is completed, the LEC must condition the trunks for each carrier that wants Flex ANI. As AT&T's testing requests demonstrate, this is not a matter of flipping a switch. Each trunk group must be converted individually (and thoroughly error-checked) during low traffic volume hours. Countless man-hours must be spent on this conditioning, and close coordination with each carrier is required. This difficulty is reflected in LEC conversion protocols, which currently only allow a single carrier/end-office to be converted to Flex ANI during any 30-day period.

In light of these complexities, your estimate that LECs could have converted all 21,000 equal access switches in 30 to 60 days, Letter at 3, would be laughable if, from a network engineering perspective, it were not so scary. It might be possible to do one switch every 30 to 60 days, but it is simply not possible to install all the software in and convert an entire network within a year, much less a month. Indeed, for a carrier like U S WEST, which has a diverse range of switch brands, many older and rural switches, and which is spread across a broad geographic area, it would take about 2 years (and perhaps more) to complete the process.

Complicating matters still further are the competing demands for personnel and switch resources. Because of the demands of carriers like AT&T, LECs are currently in the process of reprogramming their switches to handle unbundling, resale, local number portability, Feature Group D CIC expansion, and NPA splits. These changes demand the *same personnel* (engineers) and *switch resources* (e.g., switch memory) that you are now asking be devoted to the conversion to Flex ANI. LECs have only so many employees, who can put in so many hours, to meet so many demands. They cannot simultaneously meet all of AT&T's demands.

It is thus wholly incorrect for you to assert that, if my clients "had begun [the conversion to Flex ANI] in the late spring, there is no question that the work would have been completed on time." Letter at 3. Even if begun in late spring, completion would for some companies still be months if not years away.

Moreover, for AT&T to suggest that conversion *could have begun* in late spring is entirely outrageous. If you will recall, as of "the late spring," AT&T was insisting that *Flex ANI was not a feasible solution* (and insisting that it would take at least a year for AT&T to be able to accept Flex ANI codes). See Letter from E. Estey to Regina Keeney, May 23, 1997, at 3 ("AT&T's central office switches cannot currently support FLEX ANI, and it would take more than a year to develop that capability") ("May 23 Ex Parte"). It was not until August 13, 1997 that AT&T changed its mind (having miraculously solved its one-year problem with Flex ANI in a fraction of that time). See Response of AT&T and MCI to LEC ANI Coalition Ex Parte, August 13, 1997, at 4 n.4 ("AT&T has been able to overcome the previously identified technical problems associated with the receipt of Flex ANI codes.") ("August 13, 1997, AT&T/MCI Ex Parte").

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For *AT&T* to suggest that my clients should have been implementing a solution that *AT&T* itself was rejecting, at the very time *AT&T* was rejecting it, is the height ofchutzpah. It was not until about a month ago, on August 13, 1997 -- when *AT&T* suddenly decided it could use Flex ANI after all (and MCI, after clamoring for free OLNS suddenly decided that OLNS would not work for it after all) -- that Flex ANI became *AT&T*'s and MCI's chosen solution. See generally August 13, 1997, *AT&T/MCI Ex Parte*. Consequently, it was only about a month ago that my clients could even begin contemplating the use of Flex ANI to meet *AT&T*'s and MCI's demands.

The record is thus abundantly clear -- and I believe the Commission recognizes this as well -- that it was MCI's and *AT&T*'s tergiversation (which continued until the middle of last month) and not delay on my clients' part that has created the tight time deadlines now confronting the industry. See Letter at 2 (citing the "late date" as a reason for rejecting the LEC offer). Given the date on which *AT&T* agreed that Flex ANI was workable, and on which MCI suddenly decided OLNS would not be acceptable, Flex ANI could not under normal schedules have been fully deployed by October 7, 1998, much less October 7, 1997, as you now demand.

Setting aside your unacceptable efforts to lay the blame at my clients' feet, the bottom line is clear and inescapable. Flex ANI cannot possibly be implemented in the time frame or with the ease your letter suggests. It cannot be implemented (as you appear to concede) for non-equal access switches. It will not (as explained below) operate for switches using Bell I signaling. And it cannot be implemented on the remaining switches in the few days remaining before October 7, 1997. If per-call compensation is to go forward, as it should and as it must, some other solution must be found.

2. *A Comparison of Costs and Time Frames*

We understand that you also believe that using OLNS would inappropriately impose certain costs on *AT&T*. It seems to me that it would be helpful to ignore, for the moment, the question of who bears the costs and compare the total costs instead.

As an initial matter, we should point out that we find it hard to credit *AT&T*'s constantly-shifting cost and time estimates. As pointed out above, *AT&T* stated in May that it would take *at least* a year to equip its network to accept Flex ANI; then, just a few weeks later, it suddenly announced that the problem was resolved. Similarly, in May, *AT&T* told the FCC that it would "cost at least \$22 million" to equip its switches to launch LIDB queries to take advantage of OLNS. May 23 Ex Parte at 2. Now it states that the cost is \$7-10 million. Letter at 4. Surely you cannot expect us -- or the Commission -- to take *AT&T*'s estimates seriously when problems that need a year to resolve disappear overnight, or when costs are cut in half or a third in a matter of months.

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In any event, even accepting AT&T's estimates, the costs it identifies are small change compared to the alternative. According to your letter, AT&T would have to spend \$7-10 million to equip its toll-free switches to launch queries. Letter at 4. Even setting aside the fact that this very objection was rejected in the OLS proceeding, it pales in comparison to the hundreds of millions of dollars it would cost all LECs to implement Flex ANI. Indeed, as USTA has explained, it would cost over \$700 million to convert the entire industry to Flex ANI. See Letter from Keith Townsend, USTA, to Michael Carowitz, FCC, July 28, 1997, at 5. This is over 70 times the costs identified by AT&T.

Perhaps recognizing this, you state that, for non-equal access switches, AT&T will not demand Flex ANI. (This results in a savings of several hundred million dollars). Instead, you propose that, with respect to the payphones attached to those switches, the FCC issue a waiver that will keep those payphones indefinitely on a per-payphone, rather than per-call, compensation system. See Letter at 2 & n.2. While we welcome AT&T's support for waivers of unreasonable regulatory requirements, we believe that the need for any such waiver only underscores the reason why Flex ANI cannot be used as a permanent solution industry-wide. In particular, AT&T is proposing that the Commission exempt all of the payphones attached to approximately 4,500 of 26,000 switches from the per-call compensation regime *permanently*, requiring them to receive per-line compensation for the foreseeable and indefinite future. This, of course, cuts a huge hole in the Commission's per-call compensation regime. In contrast, if LECs were permitted to use OLNS *or* Flex ANI to identify payphones (as contemplated in 91-35 and as we now propose), even payphones attached to non-equal access switches would be able to participate in per-call compensation, just as the Commission intended.

Moreover, even the waiver you propose still would not cover all the areas in which it is not currently feasible to provide Flex ANI. As AT&T should be aware, many equal access switches still use Bell I signaling through Feature Group C for operator services traffic. These switches cannot provide double-digit ANI ii codes unless they are converted to Modified Operator Services Signaling ("MOSS") or Equal Access Operator Services Signaling ("EAOSS"). This will require extensive translations and rerouting work not only by the LEC, but also by the carriers that currently receive this Bell I signaling. Unless AT&T and other carriers are prepared to convert all of their Feature Group C signaling to MOSS or EAOSS overnight -- given the extensive use of Feature Group C by AT&T in certain areas, this is wholly unlikely -- the waiver would have to be extended further still.¹

Rather than creating a patchwork of exceptions, it makes more sense to use a system -- like the combination of OLNS and Flex ANI approved in 91-35 -- that will permit all payphone

¹Additional potential problems with "950" calls also have been identified. As a result, it is not clear whether Flex ANI coding digits can be passed on such calls.

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calls, regardless of their origin, to be properly identified. Indeed, it was precisely to avoid such a patchwork of exceptions that many carriers (such as those that still had some Bell I signaling and those with non-equal access switches) chose OLNS over Flex ANI under 91-35.

Finally, I should point out that the cost of implementing Flex ANI even in equal access switches is still very large. While USTA estimated the cost to be around \$170 million, Bellcore has estimated the cost to be greater (in the range of \$300 million). Moreover, both of these estimates exclude the costs of any generic upgrades that are required. Because such upgrades cost between \$125,000 and \$500,000 *per switch*, the total cost may be substantially higher still. In any event, even a total cost of \$170 million is many times the OLNS costs identified by AT&T.

Allowing the use of both OLNS and Flex ANI would save not only money, but time. AT&T is currently estimating that it would take 18 months for it to establish connectivity between its toll-free switches and LIDB/OLNS. Given that AT&T's previous 1-year estimate for Flex ANI capabilities in fact turned out to be a matter of weeks, we believe this estimate to be grossly inflated. But even accepting it as accurate for the sake of argument, it would take longer for every LEC to complete the process of installing Flex ANI and doing the necessary translations work. As explained above, one carrier believes it would take about 2 years -- and perhaps more -- to reconfigure all of its switches.

3. *A Further Proposal*

Given these facts, we thought that AT&T would see its way clear to accepting our proposal rather than requiring us to return to the Commission to resolve this issue. Given the fact that you have requested further information -- we take the list of questions provided by AT&T as evidence of interest and willingness to compromise rather than as an attempt to gather information for additional argument -- we believe that this is still possible. Accordingly, we have done two further things. First, we have attached hereto responses to your various questions. Second, we are proposing a modification to our original proposal.

As you will recall, we proposed an interim solution until such time as carriers are ready to rely on the dual Flex ANI/OLNS system we outlined in our letter. In particular, we proposed that AT&T and other carriers use the "07" and "27" codes to isolate the potential payphone calls, and then compare the originating number for those calls to the LEC ANI lists for the purpose of determining which phones were payphones belonging to PSPs, and to which PSPs the payphones belong. You responded that it would take AT&T (together with Cincinnati Bell) at least one year, and cost \$16 million, to implement this interim mechanism.

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We believe that AT&T's objections to this mechanism are, on the whole, unpersuasive.² Nonetheless, to address the concern you raise in your letter, the Coalition is willing to find a vendor to take on this function at reasonable cost, with appropriate cost recovery. AT&T and other carriers can submit their billing tapes for all "07" and "27" calls to the vendor in electronic form, and the vendor will return a report with the number of compensable calls for each payphone, each PSP, and an address where the carriers can send their checks. The carriers can audit the operations of the vendor in whatever way they wish to ensure the accuracy of the results. Alternatively, the system of interim compensation -- whatever system the Commission imposes on remand -- can be continued in the interim period.

AT&T's other objection to such a solution is that it will not permit real-time blocking. We were not aware, however, that AT&T had developed the technology to implement blocking and had plans to deploy it within the next six months. So that we may better understand your purported needs in this respect, we would appreciate it greatly if you would explain when AT&T plans to have blocking technology available, whether AT&T plans to block all payphone calls or only those from certain phones, and a realistic timetable for deployment. We believe that the solution we propose -- using ANI lists for a short, 6-month period and relying on OLNS and Flex

²In its response to the LEC ANI Whitepaper, AT&T asserted only one reason why it would not be able to track calls using this system. According to the paper, it would be "unreasonable to require [AT&T and other large carriers] to store data regarding all calls they receive that carry the 07 code, preserve that data until the LECs send quarterly lists of payphone telephone numbers and then match the data against the lists to screen out payphone originated calls." August 13, 1997, AT&T/MCI Ex Parte at 3 n.2. Why this is unreasonable, however, is far from clear. Everyone else will be tracking per-call compensation in precisely that manner. And AT&T and MCI would have to store the information until such time ANI lists are provided in any event. Without the ANI lists, AT&T and MCI will not know which originating number corresponds to which PSP, and thus to whom the check must be sent. Surely requiring AT&T and MCI to store data they would otherwise store in any event cannot be termed "unreasonable" - especially when compared to the alternative, which would foist the cost of hundreds of millions of dollars in unnecessary switch changes onto PSPs and ultimately onto consumers. Besides, even the purported "storage" problem AT&T and MCI identify is easily solved. AT&T could simply request that LEC ANI lists be sent monthly rather than quarterly. Indeed, the members of this Coalition already have offered to do so, but AT&T ignored this offer. This previously proposed solution not only would eliminate the supposed "storage" problem but also would address the other supposed problem AT&T identifies, which is timely customer billing. With monthly ANI lists, AT&T could timely recover its costs for per-call compensation from its 800 customers, who are (of course) billed on a monthly basis. It is ironic that AT&T would blame the supposed "quarterly" payment schedule for this alleged difficulty when it was *AT&T* that announced the schedule despite LEC demands for monthly payment.

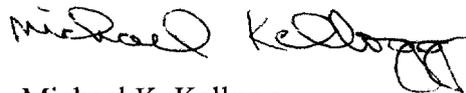
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ANI afterwards -- can be implemented before AT&T's anticipated "blocking" program could conceivably be put into place.³

Given the time deadlines that are rapidly approaching, we request that you respond to this proposal no later than September 25, 1997. Thank you for your further consideration of this matter.

Yours sincerely,



Michael K. Kellogg

cc: John Muleta
Al Barna
Rose Crellin
Greg Lipscomb
Jennifer Myers
Judy Nitsche
Robert Spangler

³As explained in the attached response to AT&T's list of questions, we also ask that you provide us with estimated per-call compensation query volumes for OLNS, based on specific ANI ii codes, in the event OLNS is used to effectuate payphone identification. This will assist us in ensuring that LIDB and the supporting network are capable of meeting any demands that AT&T might place upon them.

Attachment 1
Responses to AT&T's List of Questions

1. Which LECs would choose to provide an OLNS/LIDB functionality?

Currently, those LECs that chose OLNS/LIDB to comply with the requirements of the OLS Order, CC Docket 91-35, would (with one exception) also use OLNS/LIDB to identify payphone calls. The companies using OLNS include Bell Atlantic (North), Pacific Bell, Southwestern Bell, U S West, GTE, and SNET. Ameritech, Bell Atlantic (South), BellSouth, and Nevada Bell are currently planning to offer Flex ANI.

2. Would individual LECs' choices be consistent for all of their offices (i.e., would they use only the Flex ANI process or only an OLNS/LIDB process)? If not, on what basis would the selection be made?

For the most part, the choice would be consistent for all of a LEC's offices throughout its service area, although technical, economic, and regulatory considerations may under some conditions require otherwise.

3. Would Local Number Portability have an impact on LECs' ability to support a universal OLNS/LIDB capability?

We are not sure we understand this question, especially the reference to "universal OLNS/LIDB capability." We believe, however, that the question refers to the ability to conduct a proper OLNS query on a number that has been "ported." The industry is currently establishing processes so that queries for numbers that have been "ported" are routed to the proper database.

4. How would LECs using the OLNS/LIDB process differentiate LIDB dips for payphones from queries for non-payphones?

As we understand this question, you are asking how LECs would differentiate OLNS queries that are made for per-call compensation purposes from OLNS queries that are made for other purposes, such as fraud control. Currently, LECs cannot distinguish OLNS queries made for fraud control from those made for per-call compensation purposes (although OLNS queries can be distinguished from other types of LIDB queries). We will instead have to rely on the integrity of the carriers -- and their unwillingness to contravene the representations made in a sworn declaration to the Commission -- to prevent them from making queries for fraud-control purposes without so advising the LEC. (Given that AT&T's letter does not object to the requirement of a sworn declaration, we assume that AT&T has no objection to it.). It may be possible to create a query specific to payphone compensation, but the cost of creating and implementing the necessary software has not yet been determined.

5. How would LECs using the Flex ANI process handle LIDB dips for 07 calls from non-payphones?

LECs that have chosen to provide Flex ANI (see response to question number 1, above) will not be changing their LIDB services. Consequently, all LIDB queries to LECs that have chosen to provide Flex ANI will be handled and billed under existing tariff rates.

6. Will LECs that choose the OLNS/LIDB process send a 27 code for "dumb" coin phones?

As we understand the question, the answer is "yes," to the extent "27" codes are passed today. Any "dumb" paystation using a coin line -- regardless of its owner -- will continue to send a "27" code as part of the ANI. Without that code, the switch would not be able to provide coin functionality.

7. Can the LECs' OLNS/LIDB network currently handle the incremental calls that might be generated by the proposed solution?

It is not clear whether or not they could. One reason for the 6-month interim solution is for the LECs and the carriers to discuss anticipated volumes, and to ensure that the LIDB/OLNS systems are fully capable of handling anticipated maximum loads. Accordingly, we respectfully request that AT&T provide us with anticipated query volumes for per-call compensation based on specific ANI ii digits so that we may ensure that LIDB and the supporting network are capable of meeting anticipated needs.

8. Would the OLNS/LIDB provider accept liability for payphone-related queries that time out?

No. Currently, the fraction of queries that time out is exceedingly small. We have no reason to believe that this state of affairs will change.

9. Does the proposal's restriction regarding the use of ANI II digits for other than payphone compensation restrict carriers from imposing their own fraud controls (as they do today) based on the receipt of the 07 code?

As we understand the question, the answer is "no." Any ANI ii codes that normally would be provided without Flex ANI may be used in any manner the carrier chooses. The restriction on use applies only to the additional codes provided as a result of Flex ANI (e.g., the "70," the "29", and other "new" codes provided through the use of Flex ANI).