

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Administration of the)
North American Numbering Plan,)
Carrier Identification Codes (CICs))

CC Docket No. 92-237

10/22/97
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**ORDER ON RECONSIDERATION,
ORDER ON APPLICATION FOR REVIEW, AND
SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

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TABLE OF CONTENTS

	<u>Paragraph No.</u>
I. INTRODUCTION	1
II. BACKGROUND	2
III. ORDER ON RECONSIDERATION	7
A. Extension of Transition Beyond January 1, 1998	7
1. The Commission's Decision	7
2. Petitions for Reconsideration	8
3. Comments and Reply Comments	10
4. Discussion	20
B. Grandfathering of Three-Digit CICs	38
1. Petitions for Reconsideration	38
2. Comments and Reply Comments	42
3. Discussion	47

IV.	ORDER ON APPLICATION FOR REVIEW	77
	A. Position of Parties	77
	B. Discussion	79
V.	SECOND FURTHER NOTICE OF PROPOSED RULEMAKING	83
	A. Background	83
	B. Request for Comments	84
	C. Procedural Matters	86
VI.	CONCLUSION	91
VII.	ORDERING CLAUSES	92

Appendix A: List of Parties

Appendix B: Initial Regulatory Flexibility Analysis

I. INTRODUCTION

1. Carrier identification codes (CICs) are numeric codes that enable local exchange carriers (LECs) providing interstate interexchange access services to identify the interstate interexchange carrier (IXC) that the originating caller wishes to use to transmit its interstate call.¹ LECs use the CICs to route traffic to the proper IXC and to bill for the interstate access service provided. CICs facilitate competition by enabling callers to use the services of telecommunications service providers both by presubscription and by dialing a carrier access code, or CAC, which incorporates that carrier's unique Feature Group D CIC.²

¹ Most access providers are incumbent local exchange carriers (incumbent LECs) that provide access customers with circuits that interconnect to the local carrier's public switched telephone network. Commission rules require that "interstate access services should be made available on a non-discriminatory basis and, as far as possible, without distinction between end user and IC [interexchange carrier] customers." Petition of First Data Resources, Inc., Regarding the Availability of Feature Group B Access Service to End Users, Memorandum Opinion and Order, 1986 WL 291786, (rel. May 28, 1986) at para. 13. Typical access customers include interexchange carriers, wireless carriers, competitive access providers, and large corporate users.

² Feature Group D access, or "equal access," is known in the industry as "One-plus" ("1+") dialing. This type of access allows calls to be routed directly to the caller's carrier of choice. For a more detailed description of "1+" dialing, see n.40, *infra*. Feature Group D/equal access offers features, including presubscription, not generally available through other forms of access. With three-digit Feature Group D CICs, the CAC is five digits ("10XXX"), with the last three digits ("XXX") representing the chosen carrier's assigned CIC. In 1988, the Industry Carriers Compatibility Forum (ICCF), operating under the Alliance for Telecommunications Industry Solutions (ATIS), Carrier Liaison Committee (CLC), began to develop a two-part plan to convert and expand three-digit Feature Group D CICs to four digits. The second part of the plan, originally scheduled to occur in the third quarter of 1993, contemplated expansion of three-digit Feature Group D CICs to four digits and eventual elimination of the 10XXX CAC format. See Letter of October 13, 1989, from G.J. Handler, Vice President, Network Planning, Bell Communications Research (Bellcore), to Richard M. Firestone, Chief, Common Carrier Bureau, Federal

Originally, CICs were unique three-digit codes (XXX) and CACs were five-digit codes incorporating the CIC (10XXX). This reconsideration order focuses upon the transition to four-digit CICs and seven-digit CACs, as discussed in the following paragraphs.

II. BACKGROUND

2. On April 11, 1997, in the CICs Second Report and Order,³ the Commission approved an industry plan to expand Feature Group D CICs from three to four digits on the ground that it was a reasonable method of meeting future demand for CICs as the supply of three-digit codes was exhausted.⁴ The industry agreed that as the expansion from three to four-digit CICs occurred, and as carriers replaced their five-digit CACs with seven-digit CACs, a transition, or permissive dialing period, was needed. The industry, however, was unable to agree on the length of the transition.⁵ In its 1994 CICs NPRM, the Commission proposed a six-year period.⁶ In the CICs Second Report and Order, however, because of the rapidly depleting pool of available three-digit CICs, the Commission decided to end the transition on January 1, 1998. The Commission also denied requests to "grandfather" (i.e., to permit carriers to continue to use) previously assigned three-digit CICs that are in use at the end of the transition.⁷ The Commission's decisions were intended to advance the pro-competitive objectives of the Communications Act of 1934 (the Communications Act or the Act),⁸ as amended by the Telecommunications Act of 1996 (1996 Act).⁹

Communications Commission at 2 (Handler Letter). The ICCF's plan was published in 1991. See Expansion of Carrier Identification Code Capacity for Feature Group D (FGD), Bellcore Technical Reference TR-NWT-001050, Issue 1 (April 1991) (ICCF Expansion Plan, April 1991). In 1994, the expansion of Feature Group D CICs was scheduled for the first quarter of 1995. See Administration of the North American Numbering Plan, Notice of Proposed Rulemaking, CC Docket No. 92-237, 9 FCC Rcd 2068, 2076 (1994) (CICs NPRM). In January 1997, the ICCF became part of the Network Interconnection Interoperability Forum (NIIF), which also operates under the auspices of the CLC.

³ Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), Second Report and Order, CC Docket No. 92-237, FCC 97-125 (rel. Apr. 11, 1997), recon. pending (CICs Second Report and Order).

⁴ See CICs Second Report and Order at para. 28.

⁵ See Handler letter at 2.

⁶ See CICs NPRM, 9 FCC Rcd. at 2076-77.

⁷ See CICs Second Report and Order at para. 46.

⁸ 47 U.S.C § 151, et seq.

⁹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); see Joint Explanatory Statement of the Committee of the Conference, H.R. Rep. No. 458, 104th Cong., 2d Sess. 113.

3. On May 19, 1997, the Competitive Telecommunications Association (CompTel),¹⁰ Telecommunications Group, Inc. (Telco),¹¹ and VarTec Telecom, Inc. (VarTec)¹² filed petitions for reconsideration of the CICs Second Report and Order. Nine parties filed comments on the petitions for reconsideration, and six parties filed reply comments.¹³ VarTec simultaneously filed an emergency motion for stay of implementation of the CICs Second Report and Order.¹⁴ In an Order issued July 18, 1997, the Common Carrier Bureau (Bureau) denied the stay motion.¹⁵ On August 8, 1997, VarTec filed an Application for Review of the Bureau's decision.¹⁶

4. In this Order on Reconsideration, we modify our decision in the CICs Second Report and Order regarding the length of the transition during which three and four-digit Feature Group D CICs co-exist, and create a "two-step" end to the transition. By January 1, 1998, the end of the first phase, all LECs that provide equal access must have completed switch changes to recognize four-digit CICs.¹⁷ The second phase, which ends on June 30, 1998, is intended to allow interexchange carriers (IXCs) time to prepare their networks for, and educate their customers about, the replacement of three-digit CICs by four-digit CICs. After that date, only four-digit CICs and seven-digit CACs will be recognized. We also affirm our decision in the CICs Second Report and Order not to grandfather the use of three-digit CICs and five-digit CACs that are in use during the transition. After June 30, 1998, all CICs will be four digits in length. Our decisions here are intended to advance the pro-competitive objectives of the Communications Act, as amended.¹⁸

¹⁰ Petition for Reconsideration of the Competitive Telecommunications Association, CC Docket No. 92-237, May 19, 1997 (CompTel Petition).

¹¹ Petition for Reconsideration of Telecommunications Group, Inc., CC Docket No. 92-237, May 19, 1997 (Telco Petition).

¹² Petition for Reconsideration of VarTec Telecom., Inc., CC Docket No. 92-237, May 19, 1997 (VarTec Petition).

¹³ See Appendix A, *infra*.

¹⁴ See Emergency Motion for Stay of VarTec Telecom., Inc., CC Docket No. 92-237, May 19, 1997 (VarTec Motion).

¹⁵ See Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), Order, CC Docket No. 92-237, FCC 97-125 (rel. Jul. 18, 1997) (CICs Stay Order).

¹⁶ Application for Review of VarTec Telecom Inc., CC Docket No. 92-237, Aug. 8, 1997 (VarTec Application). On September 2, 1997, US WEST filed an opposition to VarTec's application (US WEST Application Opposition).

¹⁷ In the discussion that follows, we sometimes refer to the process of making switch changes to recognize four-digit CICs as the "conversion" of the switch or refer to switches that have or have not been "converted."

¹⁸ See n.9, *supra*.

5. We also adopt an Order on Application for Review that addresses the Application for Review filed by VarTec. For the reasons stated below, we affirm the Bureau's decision and deny VarTec's application.

6. Finally, we adopt a Second Further Notice of Proposed Rulemaking (Second FNPRM) to examine issues related to the provision of equal access in areas where it is not currently offered. Some incumbent LECs in rural and isolated areas, whose end offices are equipped with stored program-controlled (SPC) switches do not provide equal access because they have never received a bona fide request to do so. In other instances, the LECs' end offices are not equipped with SPC switches and, therefore, the LECs are not required to convert to equal access according to a specific timetable. The Second FNPRM tentatively concludes that eventually all LEC end offices should be required to provide equal access. The Second FNPRM tentatively concludes that LECs with SPC switches that have not received a bona fide request for equal access should be required to upgrade their facilities to provide equal access and to accept four-digit CICs within three years of the effective date of an Order adopted in this proceeding. It further tentatively concludes that LECs whose end offices are equipped with non-SPC switches should be required to convert their switches to provide equal access and to accept four-digit CICs when they next replace their switching facilities.

III. ORDER ON RECONSIDERATION

A. Extension of Transition Beyond January 1, 1998

1. The CICs Second Report and Order

7. In reaching its decision in the CICs Second Report and Order that the transition from three to four-digit CICs must end on January 1, 1998, the Commission considered data available at that time and analyses of current trends. Based on this information, the Commission assumed that, because the conservation plan modifications adopted in the CICs Second Report and Order allow the assignment of two CICs to each qualified applicant (rather than the one CIC limit imposed by the Bureau in March 1995),¹⁹ 75 percent of the 1,066 holders of a single CIC would request and obtain a second CIC.²⁰ The Commission also assumed that 100 percent of new CIC applicants would request two CICs, thereby increasing the monthly CIC consumption by new applicants by 16 CICs per month, for a total average monthly CIC consumption by new applicants of 32 codes.²¹ The Commission concluded that

¹⁹ See Letter from Kathleen M.H. Wallman, Chief, Common Carrier Bureau, Federal Communications Commission to Ron Conners, Director of NANP Administration, dated March 17, 1995.

²⁰ CICs Second Report and Order at n.149.

²¹ See id. The Commission's 16 CICs per month assumption was based on its determination that CIC consumption, for the six months prior to May 1996, was 16 CICs per month and that the average CIC consumption between December 1996 and February 1997 also was 16 per month. Id.

enough CICs would remain available for assignment during a transition ending on January 1, 1998, but not significantly beyond that date.²²

2. Petitions for Reconsideration

8. CompTel²³ requests that the Commission reconsider its decision to end the transition on January 1, 1998, and instead extend it for two years, until January 1, 2000.²⁴ According to CompTel, IXCs need the additional two years to educate consumers about the new dialing patterns, to reprogram equipment, and to coordinate conversion with incumbent LECs (particularly small, rural carriers) that have not upgraded their switches to recognize four-digit CICs and seven-digit CACs and whose upgrade status directly affects long distance carriers' ability to convert to four-digit CICs.²⁵ CompTel, observing that the transition established by the CICs Second Report and Order lasts only nine months, argues that carriers have not been given prior notice of a date certain at which time the transition would end.²⁶ CompTel is particularly concerned about long distance carriers whose customers use automatic dialers that must be individually and manually reprogrammed by technicians.²⁷ CompTel asserts that much of the required reprogramming will not be completed by January 1, 1998, and states that, as a consequence, these customers will be unable to complete long distance calls.²⁸ CompTel also argues that many newer long distance carriers have expended significant resources on three-digit CICs for dial-around purposes,²⁹ and must now expend additional significant resources on CIC conversion at a time when the resources are needed to negotiate and implement interconnection agreements, as well as the Commission's new access charge and universal service policies.³⁰

²² See id. at para. 45.

²³ CompTel is a nationwide industry association of competitive telecommunications carriers, with over 200 members including large nationwide carriers and many smaller regional carriers. See CompTel Petition at 1.

²⁴ Id. See n.58, infra, explaining that, in an ex parte meeting with Common Carrier Bureau staff, CompTel advocated a two-step transition.

²⁵ See CompTel Petition at 6-7. For example, CompTel argues that GTE has not made the necessary upgrades in several cities in Michigan and in some other regions, and that Ameritech has yet to convert switches in parts of its service area. See id. at n.6.

²⁶ Id. at 2-4.

²⁷ Automatic dialers automatically dial the CAC after the customer dials "1."

²⁸ See CompTel Petition at 4-6.

²⁹ Id. at 7-8.

³⁰ Id. at 5.

9. Telco argues that the Commission should grandfather three-digit CICs and five-digit CACs.³¹ As an alternative, Telco requests that the Commission require switch manufacturers and local exchange carriers to upgrade their switches by January 1, 1998, but extend the permissive dialing period until January 1, 1999 to enable dial-around carriers to test switches and educate customers.³² Asserting that it has learned from certain independent LECs that not all switches will be upgraded to recognize five-digit CACs by the end of the year, Telco argues that it cannot begin educating customers about the dialing changes until the conversion of LEC switches is completed. Telco contends that the customer education process will take at least a year because many of Telco's customers are older individuals with lower calling volumes.³³ Telco also argues that for the purpose of educating dial-around customers, it is irrelevant whether the industry has been on notice of the upcoming need for changes since 1994 and that the transition has been in place since April 1995 as relied upon by the Commission in determining the end to the transition.³⁴ Finally, Telco challenges the assumptions used by the Commission in estimating how long the remaining four-digit CICs in the 5XXX and 6XXX pool will last.³⁵ Telco argues that its assumptions, that only 50 percent of existing CIC holders with one CIC would request a second CIC and only 50 percent of new entrants would request two CICs, are as reasonable as those of the Commission and would yield an additional 350 CICs available for assignment. At an assignment rate of 24 CICs per month, rather than at the Commission's assumed assignment rate of 32 CICs per month, Telco argues that its proposal would add more than one year to the transition.³⁶ Telco also questions the Commission's concern that a substantial number of CICs should remain available for unidentified new entrants into the telecommunications services market.³⁷

3. Comments and Reply Comments

10. The majority of parties that commented on this issue supports an extension of the transition beyond January 1, 1998. The suggested end to the transition varies, with dates ranging from June 30, 1998, to January 1, 2000. Commenters assert that an extension of the transition is warranted for several reasons.

³¹ See para. 41, *infra*.

³² See Telco Petition at 8.

³³ Id. at 4-5.

³⁴ Id. at 6-8, citing CICs Second Report and Order at para. 37.

³⁵ Id. at 8-10.

³⁶ Id. at 8-9.

³⁷ Id. at 9-10.

11. Some parties assert that the Commission's decision to end the transition on January 1, 1998, "imposes an unnecessary burden on the interexchange market."³⁸ In particular, parties argue that the burden would be great on IXCs that have programmed their five-digit CACs in numerous automatic dialers and that must manually reprogram them by sending technicians to customers' offices.³⁹ Parties argue that customers using automatic dialers that have not been reprogrammed by January 1, 1998, would be unable, after that date, to complete long distance calls using the long distance carriers they had selected. They assert that this situation would lead to significant customer confusion and frustration and would harm the ability of these long distance carriers to compete with the incumbent LECs in the intraLATA toll services market.

12. Parties raise particular concern about states that do not yet require intraLATA toll presubscription. They argue that, in these states, all of a customer's 1+⁴⁰ intraLATA toll traffic would default to the incumbent LEC if the customer's long distance carrier were unable to use its CAC.⁴¹ According to these commenters, end users can only reach a competing carrier by dialing the carrier's CAC prior to dialing the called party's NPA/NXX-XXXX. For convenience, however, many consumers have programmed their long distance carrier's CAC into their PBX or dialer so that when the end user dials 1+, the PBX or dialer substitutes the CAC for the 1+ dialing. Thus, commenters suggest that although "it was intraLATA toll that precipitated the need for PBXs and dialers to be programmed with CACs, the PBX or the dialer uses the CAC for all of a consumer's toll traffic. If the CAC ceases to function, it will affect all of a consumer's long distance calls."⁴² According to commenters, the customer using the equipment will not be able to make any long distance calls (interLATA, intraLATA, interstate or intrastate) until the PBX or dialer is reprogrammed with the seven digit CAC.⁴³ For this reason, MCI argues that the transition should be extended until the Regional Bell Operating Companies (RBOCs) are required to provide intraLATA toll dialing parity or at

³⁸ MCI Comments at 1.

³⁹ See CWI Comments at 3 (noting that dialers installed by CWI since April 1997 have been programmed to accept four-digit CICs but that those installed earlier have not); TRA Comments at 4-5 (arguing that manual reprogramming would be necessary for alarm panels that rely on automatic dialers).

⁴⁰ In North America, 1+ dialing signals the local phone company that the telephone number being dialed is an interexchange call. Through 1+ dialing, a customer's call is routed to its presubscribed long distance carrier. Thus, the customer dials "1" plus the numbering plan area (NPA) and a seven-digit telephone number of the called party. To reach an IXC other than its presubscribed carrier and to route a call over that carrier's network, the customer must first dial the carrier's CAC and then the NPA and seven-digit telephone number of the called party.

⁴¹ WorldCom Comments at 3-4; CWI Comments at 3-4 (arguing that, in California, it is at a competitive disadvantage to Pactel, the only presubscribed carrier in that state for intraLATA calls).

⁴² WorldCom Comments at 4.

⁴³ Id.

least until the demand for additional CICs requires the transition's end.⁴⁴ WorldCom also contends that, because all LEC switches have not been converted, its efforts to reprogram dialers through a systematic national program have been hindered⁴⁵ and it has not been possible to mount a national education campaign.⁴⁶

13. Several parties challenge the Commission's determination in the CICs Second Report and Order that the industry has been given adequate notice about the need to upgrade systems to recognize four-digit CICs.⁴⁷ Other parties assert that notice is largely irrelevant to dial-around interexchange service providers.⁴⁸ US WEST agrees with the Commission that the industry has been on notice since May 1994 about the need to begin the CIC conversion process, and that the transition has been ongoing since April 1995, the day after which the last three-digit Feature Group D CIC was assigned, and the day on which Bellcore began to assign four-digit CICs exclusively.⁴⁹ In addition, US WEST argues that the April 1996 Public Notice "clearly indicated that the transition schedule might be advanced."⁵⁰ US WEST argues that a transition ending on January 1, 1998, is sufficiently long and states that customers in the US WEST region typically receive from six to nine months notice and education regarding numbering plan area changes.⁵¹

14. CWI argues that it needs a longer transition not just to complete reprogramming all of its automatic dialers but also to notify its customers who have installed their own customer premises equipment (CPE) that they need to convert to four-digit CICs.⁵²

⁴⁴ See MCI Comments at 4-6 and 8. According to MCI, enough CICs are available to extend the transition at least 39.5 months beyond January 1, 1998. See also TRA Comments at 2-3; discussion at n.160, *infra*.

⁴⁵ WorldCom Comments at 2.

⁴⁶ Id. at 7.

⁴⁷ See TRA Comments at 5-6; CompTel Reply Comments at 2 (mere warnings and possibilities of future conversion requirements are not equivalent to final rules providing notice that conversion would be necessary by a date certain); WorldCom Comments at 7 (the transition was never a transition mandated by Commission order); Telco Reply Comments at 2-3 (it was unreasonable for the Commission to have expected the industry to invest money in upgrading systems based merely on a proposal by the Commission).

⁴⁸ Telco Petition at 6-7.

⁴⁹ US WEST Comments at 3, citing CICs Second Report and Order at para. 37.

⁵⁰ US WEST Comments at 3.

⁵¹ See id. at 5-6 and n.16 (referring to as an example the split of the 206 NPA into three NPAs, 206, 425, and 253, with a seven-month permissive dialing period from April 27, 1997, until November 18, 1997). CompTel disagrees with this analogy, arguing that CIC changes could require substantially more time for customer education and have greater implications for competitive conditions in the long distance industry. See CompTel Reply Comments at 3-4.

⁵² CWI Comments at 4.

CWI states that because customers maintain their own CPE, it "is unclear on exactly how these customers are to be notified" and CWI "can only assume that the Commission intends to conduct a public campaign to notify consumers or will require notification by the LECs."⁵³ Telco asserts that call intercept messages, like those used to introduce new area codes, must be developed to inform dial-around customers that they need to dial additional digits.⁵⁴ Telco asserts that the process for developing and implementing such call intercepts has not yet begun and will require industry consensus.⁵⁵ MCI supports Telco's suggestion that the Commission require intercept messages, but argues that such messages are unlikely to remove the anti-competitive effect of premature termination of the permissive dialing period.⁵⁶

15. Finally, CWI argues that some companies, like CWI, have their own switches that may not be capable of accepting four-digit CICs. CWI asserts that it is in the process of developing software that will enable its switches to recognize four-digit CICs but will need additional time to engage in testing, troubleshooting, and verifying the use of four-digit codes with other carriers.⁵⁷

16. The majority of commenters supports a "two-step" transition process to avoid a "flash-cut" conversion. Under such a transition, LECs would first be required to convert their end office switches to accept four-digit CICs, and then to coordinate with IXCs for an additional period of time during which the IXCs would also educate customers regarding necessary dialing changes.⁵⁸ Parties contend that they cannot begin to make changes

⁵³ Id. at 4-5.

⁵⁴ Telco Petition at 6.

⁵⁵ Id.

⁵⁶ MCI Comments at 5 n.8.

⁵⁷ See CWI Comments at 5. As an example, CWI notes a problem that occurred approximately six months prior to the time CWI filed its comments, when a large U.S. carrier, also a CWI international vendor, reconfigured its international switches to accept only calls made with four-digit codes. CWI asserts that the vendor failed to inform CWI of the reconfiguration, resulting in blockage of international calls for CWI customers. Id.

⁵⁸ Sprint and US WEST suggest a two-step transition with LEC conversion required by January 1, 1998, and the transition ending no later than June 30, 1998. See Sprint Comments at 2-3; US WEST Reply Comments at 2-4 (retreating from the argument in its comments that there should be no extension). WorldCom advocates a two-step transition with LEC conversion by January 1, 1998, and the transition ending on January 1, 2000. See Worldcom Comments at 1-3. LDI suggests a two-step transition ending on January 1, 2000, but does not suggest a date by which the first step, LEC conversion, would have to be completed. See LDI Comments at 1. CWI, supporting CompTel's petition, requests that the transition be extended until January 1, 2000. See CWI Comments at 5. TRA suggests a two-step transition with LEC conversion by January 1, 2000, and the transition ending at least one year later. See TRA Comments at 89; TRA Reply Comments at 6. In its petition, CompTel suggests extending the total transition until January 1, 2000 (see CompTel Comments at 2), but in an *ex parte* meeting with Common Carrier Bureau staff on July 15, 1997, CompTel, based on its review of the reconsideration record and further investigations, advocated a two-step transition, with LEC conversion by January 1, 1998, and the transition ending on January 1, 2000. See Ex Parte Communication of CompTel and WorldCom, CC Docket No. 92-237 (Jul. 16, 1997). See also

necessary to accommodate four-digit CICs (e.g., reprogramming of PBXs or automatic dialers) until the transition to four-digit CICs is complete at the LEC switch level and, thus, their ability to prepare for conversion is dependent on how quickly incumbent LECs convert their switches. Parties express concern that in areas with many smaller and independent LECs⁵⁹ and in other areas where switches have not been upgraded, CAC dialing will be "rendered impossible" by the end of the transition on January 1, 1998, significantly hampering the business of long distance resellers.⁶⁰ Moreover, parties contend that once LEC switch conversion has taken place, dial-around inter-exchange service providers need time, after the LEC conversion deadline, for customer education and end-office field testing.⁶¹

17. US WEST, rejecting arguments about LECs' inability to meet the current conversion date, claims that there is no documented evidence to support the alleged lack of LEC conversion. US WEST asserts specifically that it had completed necessary changes throughout its network before the first four-digit CIC was assigned and that it can now accommodate all of the 522 four-digit CICs assigned as of May 1997.⁶² US WEST states, however, that to the extent the Commission finds that the requisite conversion of incumbent LEC switches is incomplete, US WEST could support Sprint's suggestion that there be a "moderate extension of the transition period,"⁶³ with incumbent LEC conversion required by January 1, 1998, and a transition ending no later than June 30, 1998.⁶⁴ US WEST disputes, however, that a lengthier extension of the transition is necessary, rejecting the argument that the lack of intraLATA toll presubscription and 1+ dialing capability with respect to intraLATA toll calls is anticompetitive.⁶⁵ US WEST and Sprint urge the Commission to limit the duration of any extension to the transition. They argue that the transition causes competitive imbalances because some carriers' customers are able to reach their networks using a five-digit CAC while other carriers' customers must dial seven digits.⁶⁶ TRA disagrees, responding that the "anticompetitive dangers here do not approach the compelling

Ex Parte Communication of Consumer Federation of America, CC Docket No. 92-237 (Oct. 15, 1997) (arguing that the Commission should "begin a transition period of one to two years . . .").

⁵⁹ Telco Comments at 4-5, quoting CICs Second Report and Order at para. 18, citing GVNW Inc./Management Comments at 2; WorldCom Comments at 6 and nn.2-3, citing CICs Second Report and Order at para. 18.

⁶⁰ See LDI Comments at 3.

⁶¹ TRA Comments at 6, citing Telco Petition at 4.

⁶² US WEST Comments at 4-5.

⁶³ US WEST Reply Comments at 1-2, quoting Sprint Comments at 2.

⁶⁴ US WEST Reply Comments at 2-4.

⁶⁵ Id. at 3 n.4.

⁶⁶ Sprint Comments at 3; US WEST Reply Comments at 1-2.

dimensions asserted by US WEST,"⁶⁷ and arguing that the CICs Second Report and Order, by ending the transition on January 1, 1998, has "inadvertently set the stage for the 'flash-cut conversion' which the Commission has held would be 'contrary to the public interest.'"⁶⁸

18. Parties advocating a lengthened, two-step transition process reject suggestions that, as an alternative to extending the transition, the Commission could entertain waivers of the conversion requirements by LECs with switches that are not upgraded to recognize four-digit CICs, and IXCs served by the switches of such LECs.⁶⁹ AT&T, while not objecting to an extended transition, supports the waiver approach for LECs that allege that they cannot meet the January 1, 1998 conversion date. AT&T is the only long distance carrier that disagrees that complete conversion of LEC switches should be a prerequisite to ending the transition.⁷⁰ Telco argues that requiring LECs to obtain waivers of the switch conversion deadline would lead to sporadic implementation of four-digit CICs, to the detriment of new entrants.⁷¹ TRA cautions that any waivers granted would have severe consequences for long distance calling and should be scrutinized carefully.⁷² Sprint notes that no such waivers have been requested.⁷³

19. AT&T requests that the Commission clarify the CICs Second Report and Order's modification of the conservation plan limiting to two the number of CICs an entity may be assigned. AT&T asks that the Commission state that it will discontinue the conservation plan once the transition ends.⁷⁴

⁶⁷ TRA Reply Comments at 4.

⁶⁸ Id. at 4, quoting CICs Second Report and Order at para. 32.

⁶⁹ See Telco Reply Comments at 5; TRA Reply Comments at 5-6. US WEST and AT&T suggested waivers as alternatives. See US WEST Comments at 5 (suggesting that parties directly affected by a LEC's inability to complete conversion in a specific central office could request a waiver); AT&T Comments at 4 (suggesting that small LECs who claim that it is not economically feasible to complete conversion by the prescribed deadline could request waivers).

⁷⁰ AT&T Comments at 4 ("[t]hose small LECs that claim it is not economically feasible to upgrade their switches by the end of the transition period would be free to seek a waiver from the Commission.").

⁷¹ Telco Reply Comments at 5.

⁷² TRA Reply Comments at 5-6.

⁷³ Sprint Reply Comments at 2. Since the record closed, and as of October 15, 1997, seven LECs had filed petitions for waiver of the January 1, 1998 conversion deadline under the CICs Second Report and Order. See, e.g., Hardy Telecommunications, Inc. Petition for Limited Waiver, CC Docket No. 92-237 (Sep. 23, 1997). Waiver petitions will be addressed separately.

⁷⁴ See AT&T Comments at 5-6.

4. Discussion

20. Two-Step Transition. After reviewing the comments and additional record information described below, we conclude that we should modify our decision in the CICs Second Report and Order to end the period for completing the conversion from three-digit Feature Group D CICs to four-digit Feature Group D CICs on January 1, 1998. First, we determine that LEC end office switches must be upgraded to accept four-digit CICs by January 1, 1998.⁷⁵ Second, we determine that the transition during which use of both three-digit CICs and five-digit CACs may continue will end on June 30, 1998, rather than on January 1, 1998. The result will be a "two-step" transition, in which LECs will complete switch changes to recognize four-digit CICs in the first phase, and IXCs will prepare their networks and educate their customers during the second phase. We note that, if certain LEC switches are unable to recognize four-digit CICs and seven-digit CACs now, the callers subscribing to the services of the approximately 549 four-digit CIC holders may be denied access to services of those CIC holders until January 1, 1998. The number of such CIC holders will only increase during the period ending on January 1, 1998. We find that perpetuating this inability to access services any longer than necessary would be contrary to the pro-competitive goals of the 1996 Act.⁷⁶ Notwithstanding the above modifications, we affirm that the transition should end as soon as practicable because, as we stated in the CICs Second Report and Order, "[w]e are confident that . . . the use of only four-digit CICs will serve the pro-competitive goals of the Act, as well as the specific objectives of Sections 251(e) and 251(b)(3)."⁷⁷ Moreover, as explained below, we must ensure that the supply of available four-digit Feature Group D CICs is sufficient to last for the duration of the transition.

21. Prior to issuing the CICs Second Report and Order, Commission staff made inquiries to learn when the hardware and software necessary to upgrade equipment to accept four-digit CICs had been made available by PBX manufacturers to PBX owners.⁷⁸

⁷⁵ As discussed below in our Second FNPRM (See paras. 83-85, infra), LECs that do not currently provide equal access, because they never received a bona fide request to do so, are not required to meet the January 1, 1998 conversion date. In referring to LECs in the discussion that follows in this Order on Reconsideration, we mean LECs that currently provide equal access and, therefore, that are subject to the January 1, 1998 conversion date.

⁷⁶ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); see Joint Explanatory Statement of the Committee of the Conference, H.R. Rep. No. 458, 104th Cong., 2d Sess. 113.

⁷⁷ CICs Second Report and Order at para. 27. See paras. 47-76, infra, for discussion of our decision not to grandfather three-digit CICs and five-digit CACs.

⁷⁸ See CICs Second Report and Order at para. 40:

[t]he information we received indicates that an average of 82 percent of PBX customers of equipment manufacturers representing [] 67.4 percent of the PBX market currently has systems with four-digit CIC capability. A large number of the PBX customers in the 18 percent that did not yet have this capability would need only software changes to bring their systems into compliance, fewer would need both hardware and software changes, and a very

Commission staff made similar inquiries with respect to when network switch manufacturers had made such hardware and software available to carriers. Relying on information received from two network switch manufacturers cumulatively representing approximately 91 percent of the total United States market for local network switches as measured by sales,⁷⁹ the Commission stated that it appeared that the hardware and software necessary for local network switches to process four-digit CICs had been on the market for at least two to three years and, in some cases, for much longer.⁸⁰ Although Lucent Technologies did not disclose how many of its local network switch customers had purchased the new products, NorTel, representing 45 percent of the local network switch market, stated that all of its customers requiring equal access software had four-digit CIC capability.⁸¹

22. Nonetheless, because of the concern raised in the reconsideration record about the status of LEC end office switch conversion,⁸² Commission staff made further inquiries about the status of LEC conversion efforts. Commission staff requested and received information from the following associations with LEC members: the Organization for the Promotion and Advancement of Small Telephone Companies (OPASTCO);⁸³ the National Telephone Cooperative Association (NTCA); the United States Telephone Association (USTA); the National Rural Telephone Association (NRTA); GVNW Inc./Management (GVNW); and the National Exchange Carriers Association (NECA). Specifically, Commission staff asked each association for information on what percentage of its LEC

small percent would need to completely replace their systems. It is noteworthy that manufacturers representing smaller portions of the PBX market (1) began selling systems with inherent four-digit CIC capability much earlier than those manufacturers representing larger portions of the market; and (2) currently have higher percentages of their PBX customers with four-digit CIC capable systems.

⁷⁹ The Commission sought and received information from Lucent Technologies (the former manufacturing arm of AT&T Corp.) and Northern Telecom (NorTel) (the manufacturing subsidiary of the Canadian telecommunications conglomerate, BCE Inc.).

⁸⁰ See CICs Second Report and Order at paras. 39 and 43, and nn.134-136.

⁸¹ Id. at para. 39 and n.136.

⁸² Several parties suggested that the Commission conduct further inquiries related to the LEC conversion status. See, e.g., CompTel Reply Comments at 3 (stating that it is "confident that the FCC, upon inquiry, will readily ascertain that the failure of incumbent LECs to convert all of their end offices is a widespread problem"); Telco Reply Comments at 4 (suggesting that the Commission seek additional data from independent LECs if it wants further confirmation that few of them will be able to complete upgrades for four-digit CIC capability by January 1, 1998). CompTel argues that GTE has not made the necessary upgrades in several cities in Michigan and in some other regions, and that Ameritech has yet to convert switches in parts of its service area. See CompTel Petition at n.6.

⁸³ OPASTCO formerly was known as the Organization for the Protection and Advancement of Small Telephone Companies.

members required to provide equal access had end office switches capable of recognizing four-digit CICs and seven-digit CACs as of July 1, 1997.⁸⁴

23. The information the Commission received reveals that most equal access central offices either are currently capable of recognizing four-digit CICs, or will be upgraded to do so by the end of 1997. Based on data collected from the Local Exchange Routing Guide, USTA states that approximately 83 percent of central offices in the United States are required to provide equal access (i.e., 24,000 central offices out of a total of 28,500 are required to provide equal access).⁸⁵ USTA states that it expects its LEC members required to provide equal access to have four-digit CIC capability installed by January 1, 1998, and that it further understands that software upgrades are all that is necessary to enable equal access end offices to recognize four-digit CICs.⁸⁶ NTCA reports that of the 304 member LECs responding to an inquiry sent to all 496 members, six respondents required to offer equal access will not be able to support four-digit CICs and seven-digit CACs by the end of 1997.⁸⁷ NTCA reports that many LECs responding to the inquiry that do not offer equal access nonetheless either have the capability now to provide equal access using four-digit CICs and seven-digit CACs, or will have it by the end of 1997.⁸⁸ GVNW received information from 89

⁸⁴ Federal Communications Commission Request for Information from OPASTCO, CC Docket No. 92-237, dated July 18, 1997; Federal Communications Commission Request for Information from NTCA, CC Docket No. 92-237, dated July 24, 1997; Federal Communications Commission Request for Information from USTA, CC Docket No. 92-237, dated July 18, 1997; Federal Communications Commission Request for Information from NRTA, CC Docket No. 92-237, dated July 24, 1997; Federal Communications Commission Request for Information from GVNW, CC Docket No. 92-237, dated July 24, 1997; Federal Communications Commission Request for Information from NECA, CC Docket No. 92-237, dated July 28, 1997.

⁸⁵ USTA July 30, 1997 Filing at 1.

⁸⁶ Id. at 2. In response to a request by Commission staff in an ex parte meeting, Sprint confirms that all of the Sprint Local Telephone Companies' equal access end offices were upgraded and capable of handling four-digit CICs as of December 1996. See Sprint Letter Regarding Ex Parte Presentation, July 24, 1997.

⁸⁷ NTCA July 29, 1997 Filing at 1. NTCA states that one of the six LECs responding will be able to convert its central office switches to recognize four-digit CICS through a software upgrade that the vendor cannot complete until February 1998. Five of the carriers require switch replacements, with replacements for three of the carriers scheduled to be completed during the first half of 1998. The other two carriers will be unable to complete their switch replacements until some point in 1999 because they must go through the Rural Utilities Service (RUS) funding approval process. Id. NTCA also provided data regarding estimated costs for upgrades for all respondents, including those not now required to provide equal access. See id. at 2. Regarding the need for software upgrades, NTCA states that 37 companies indicated that, collectively, they require upgrades for 175 switches, at an average cost of \$75,000 each, with the upgrades typically including features in addition to support for four-digit CIC and seven-digit CACs. Id. Regarding switch replacement, NTCA states that 19 companies indicated a need to replace 71 switches. The average cost for switch replacement, reported by 15 companies, was approximately \$500,000 each.

⁸⁸ Id. NTCA states that approximately 100 member companies are not required to provide equal access and will not be providing it by the end of 1997. It notes that these companies have based switch replacement and software upgrades for equal access on, among other things, the proposed six-year CIC transition. Id. NTCA notes further that companies in the most rural and isolated areas have never received bona fide requests to provide equal

of approximately 150 clients (60 percent). Central offices of 79 percent of those respondents provide equal access and, of those, approximately 95 percent have switches capable of recognizing four-digit CICs and seven-digit CACs.⁸⁹ Regarding the relationship between equal access software and four-digit CIC capability, NECA states: "It is our understanding that most of the switch vendors started adding four-digit CIC capability to their switch software in the 1995 timeframe [c]ompanies who had equal access software installed after the availability of four-digit CIC capability should be able to comply with the FCC's recent order with minimum of expense."⁹⁰ Both OPASTCO and NECA provide information regarding the equal access conversion status of their members: OPASTCO states that 335 of its 485 members report that they provide equal access;⁹¹ and NECA data indicates that 86 percent of the central offices of its LEC members currently offer equal access.⁹²

24. Although our further inquiries on the status of LEC end office switch conversion reveal that most LECs already have converted their switches to accept four-digit CICs or will do so by January 1, 1998, we acknowledge that some LECs report that they will not convert their switches by that deadline. Based on the information the Commission received, however, the number of carriers in this situation appears to be small. We expect that all LECs that currently provide equal access are now striving, and will continue to strive, to achieve compliance with the four-digit CIC requirement by January 1, 1998. If we receive a complaint of LEC noncompliance, infeasibility of compliance with that deadline will not relieve a defendant LEC of liability under section 208 of the Commission's rules.⁹³ A LEC

access. *Id.*

⁸⁹ GVNW August 1, 1997 Supplemental Filing at 1. GVNW states that of the remaining LECs providing equal access that have not yet converted to four-digit CIC capability, 47.3 percent would need only software upgrades to convert (at an average cost per central office of \$55,222), 47.3 percent would need to replace their switches (at an average cost per central office of \$434,195), and for 5.3 percent it has no data. *See id.* at 2. GVNW reports that of those LEC members with central offices not yet providing equal access, 16 percent are scheduled to convert to equal access and four-digit CIC capability by December 31, 1997, 18 percent by February 8, 1999, and 66 percent are not yet scheduled to convert. *Id.*

⁹⁰ NECA August 1, 1997 Filing at 2.

⁹¹ OPASTCO July 29, 1997 Filing.

⁹² NECA August 1, 1997 Filing. NRTA, NECA, and OPASTCO do not provide specific information regarding percentages of their LEC members that have upgraded their switches to four-digit CIC capability. Each states, however, that its members also are members of the other associations that received information requests from the Commission. NRTA asserts that it does not maintain information about the status, plans, or projected costs of switching and software capabilities for its individual members' networks or for its membership as a whole, but notes that, in addition to its membership consisting of borrowers under the RUS program, its members also are members of NECA. NRTA July 29, 1997 Filing. NECA states that it does not believe that a data request to its membership would be helpful because it would "provide duplicative and perhaps misleading information." NECA July August 1, 1997 Filing at 1. OPASTCO states that the majority of OPASTCO members also are USTA members. OPASTCO July 29, 1997 Filing.

⁹³ 47 U.S.C. § 208.

that determines that it will not meet the January 1, 1998 conversion deadline must seek relief from the Commission prior to that date.

25. On balance, we find that the public interest, and the procompetitive policies underlying the Act, as amended, are best served by moving to use of only four-digit CICs as soon as possible. Therefore, we affirm our decision that LECs that currently provide equal access must upgrade their end office switches to recognize four-digit CICs by January 1, 1998. To accommodate the concerns raised by IXCs and others, however, we extend the transition for them by six months, from January 1, 1998, to June 30, 1998. Introducing a second stage and thereby creating a two-step transition process will give IXCs the time they need to coordinate the conversion with LECs, and to prepare their networks and educate their customers about necessary dialing changes. The record indicates that IXCs, to prepare their networks for complete conversion to four-digit CICs, may need to engage in, for example, reprogramming automatic dialers and PBXs, troubleshooting, testing, and verifying the use of four-digit CICs with other carriers. As discussed below, our decision not to extend the transition more than six months is based on our concern that there be enough four-digit CICs to meet the demand for CIC assignments during the transition,⁹⁴ and that the anticompetitive effects of dialing disparity are minimized.⁹⁵

26. In general, individual carriers are responsible for educating their customers about changes necessitated by the transition to four-digit CICs and they should be free to decide how best to do so. Although industry may agree on additional industry-wide consumer education efforts that should be undertaken to smooth the transition from three to four-digit CICs for consumers, pursuant to our exclusive jurisdiction over those portions of the NANP that pertain to the United States⁹⁶ and to our general rulemaking authority,⁹⁷ we conclude that, at a minimum, LECs must offer a standard intercept message beginning on or before June 30, 1998, explaining that a dialing pattern change has occurred and instructing the caller to contact its IXC for further information. In developing an intercept message, LECs must consult with IXCs and reach agreement on the content of the message and on the period of time during which the message will be provided. We leave to resolution by the parties decisions about who should have the ultimate responsibility for determining the content of the intercept message and the period of time during which the message must be offered. The Commission will resolve any disputes arising from parties' inability to reach agreement on such matters. Finally, we conclude that the determination of how best to cover the costs of providing the intercept message should be left to individual LECs, including whether their access customers should be charged a reasonable fee to cover those costs.

27. CIC Consumption. We remain concerned that there be enough four-digit CICs in the 5XXX and 6XXX range available to meet the demand for CIC assignments during the

⁹⁴ See para. 27, *infra*.

⁹⁵ See para. 37, *infra*.

⁹⁶ See 47 U.S.C. § 251(e)(1).

⁹⁷ See 47 U.S.C. 47 U.S.C. § 154(i).

transition.⁹⁸ In the CICs Second Report and Order, we estimated that the remaining unassigned CICs in this range "should be sufficient to meet carrier demand until January 1, 1998, but perhaps not significantly beyond that date."⁹⁹ Based on current CIC consumption, with adjustments made to reflect conservation plan modifications,¹⁰⁰ we conclude that the remaining unassigned CICs in the 5XXX and 6XXX range should be sufficient to meet carrier demand until June 30, 1998, but continue to believe that the CIC supply would be jeopardized by an extension significantly beyond that date. We must ensure that there are enough assignable CICs during the transition to meet industry demand because without CICs it would be extremely difficult for new entrants to compete in the telecommunications services market. Therefore, we find that a forecast of Feature Group D CIC consumption must be based on reasonably liberal assumptions of possible consumption.

⁹⁸ According to Bellcore, 610 four-digit Feature Group D CICs (in the 5XXX and 6XXX range) were already assigned as of September 30, 1997 (see Letter October 15, 1997, to Kris Monteith, FCC, from Nancy Fears, Bellcore, North American Numbering Plan (NANP) Administration) and, according to AT&T, CIC consumption for the six months prior to May 1996, was 16 CICs per month (see Comments of AT&T at 8 to FCC Public Notice: Further Comments, Carrier Identification Codes, CC Docket No. 92-237, Public Notice DA 96-678, Common Carrier Bureau, April 30, 1996). The CIC consumption average between December 1996 and February 1997 was also 16 CICs per month (see March 6, 1997 Nancy Fears Bellcore Letter). If monthly consumption were to continue at this rate between October 1, 1997, and June 30, 1998, 144 CICs would be consumed. We estimate, however, that CIC consumption could increase by an additional 16 CICs per month because the conservation plan modifications allow the assignment of an additional CIC to each applicant who qualifies (totalling 32 CICs per month). Therefore, we estimate, based on the 16-per-month CIC consumption average and the possibility that it could increase due to the conservation plan modifications, that an additional 144 CICs could be assigned between October 1, 1997, and June 30, 1998 (totalling 288 CICs). Finally, the approximately 989 carriers who, as of July 1997, hold only one three or four-digit CIC also may qualify for an additional CIC under the conservation plan modifications (See July 25, 1997 Bellcore Letter). If 75% of current single CIC holders ultimately obtain an additional CIC, we estimate CIC consumption will increase by 742 CICs. In summary, the total estimated CIC consumption figure, without considering CIC demand from unidentified new competitive entrants beyond the anticipated 16 new entrants per month, is 1,640 CICs. When this figure is subtracted from the 1,969 four-digit Feature Group D CICs in the 5XXX and 6XXX range that are available for assignment, 329 CICs remain available for assignment to, for example, new entrants for which our calculation has not accounted between October 1, 1997, and June 30, 1998. If each new entrant is assigned two CICs, then the remaining 329 CICs can support up to 165 new entities during the transition (or 18 new entities per month).

⁹⁹ CICs Second Report and Order at para. 45 and n.149. For the period between March 1, 1997, and January 1, 1998, we estimated that 375 CICs would remain available for unidentified new competitive entrants. This figure was based on an estimate of 1,594 CICs to be assigned during that period (to entities assigned only one CIC at the time of the CICs Second Report and Order and to an anticipated 16 new entrants per month) subtracted from the 1,969 four-digit Feature Group D CICs in the 5XXX and 6XXX range available during the transition. The 1,594 figure was based on the following estimates: (1) an estimated continuation of the 16-per-month CIC consumption average (which had been the average monthly rate between December 1996 and February 1997); (2) the possibility that this number could double to 32 CICs per month with new applicants requesting two CICs under the conservation plan modifications; and (3) an estimated 75 percent of entities holding one CIC at the time of the CICs Second Report and Order requesting a second CIC under the conservation plan modifications. See id. at n.149.

¹⁰⁰ See n. 98, supra.

28. Our decision here to extend the transition only until June 30, 1998, recognizes our continuing expectation that, even under our conservation plan, monthly CIC consumption will continue to increase "as new carriers enter the telecommunications services market . . ." ¹⁰¹ While the number of Feature Group D CICs assigned in May 1997 was only 18, the number of assignments in June 1997 increased to 27, and in July 1997 to 29. The number of assignments in August 1997 decreased only slightly to 21, but in September 1997 increased significantly to 30, just slightly below our estimate in the CICs Second Report and Order of 32. These figures demonstrate that CIC consumption continues to increase and offer additional support that our analysis of demand for CICs is reasonable, and compels a transition that is as brief as reasonably possible. As noted above, we expect that 75 percent of the 989 current CIC holders who are eligible to receive a second CIC ¹⁰² as a result of the change in the ongoing conservation plan, will request a second CIC. For these reasons, we cannot responsibly extend the transition to as late as January 1, 2000, as some parties request, or even, as requested by MCI, ¹⁰³ until the RBOCs must provide intraLATA toll dialing parity, which, in some situations, could be as late as February 8, 1999. ¹⁰⁴

¹⁰¹ CICs Second Report and Order at para. 45.

¹⁰² As of July 1997, approximately 989 carriers hold only one three or four-digit CIC. See n. 98, supra.

¹⁰³ See para. 12, supra.

¹⁰⁴ See 47 U.S.C. § 271(e)(2)(B), stating:

[e]xcept for single-LATA States and States that have issued an order by December 19, 1995, requiring a Bell Operating company to implement intraLATA toll dialing parity, a State may not require a Bell operating company to implement intraLATA toll dialing parity in that State before a Bell operating company has been granted authority under this section to provide interLATA services originating in that State or before 3 years after the date of enactment of the Telecommunications Act of 1996, whichever is earlier.

29. In the past, entities that requested Feature Group D CICs without acquiring Feature Group D trunk access were denied a CIC. Since the CICs Second Report and Order was released, however, the Industry Numbering Committee (INC)¹⁰⁵ accepted for industry consideration a proposed change to the CIC Assignment Guidelines to eliminate the requirement that an applicant for a Feature Group D CIC must use that CIC for its own Feature Group D trunk access if the applicant will be using the Feature Group D access already provided to an underlying transport provider.¹⁰⁶ This change may be implemented as early as November 1997.¹⁰⁷ Thus, our estimates of CIC consumption must assume that this change in assignment eligibility will occur prior to the transition's end. If this change is implemented, entities previously denied CIC assignments will become eligible to receive up to two CICs. Between May 19, 1997 (the effective date of the CICs Second Report and Order) and June 30, 1997, six of nine Feature Group D CIC requests were rejected because the requesting parties had not acquired Feature Group D trunk access; after the change is implemented, each of those six previously ineligible entities will become eligible to receive two Feature Group D CICs.¹⁰⁸ Thus, it appears likely that this change in the CIC Assignment Guidelines will increase CIC consumption.

30. For all these reasons, we disagree with the parties that argue that available CICs could meet industry needs during a transition extending significantly beyond January 1, 1998. MCI and TRA, in challenging the Commission's estimates regarding CIC consumption, have underestimated the significance of CICs to a competitive telecommunications environment.¹⁰⁹ Both parties fail to consider the significant number of second Feature Group

¹⁰⁵ The INC, under the auspices of the CLC, develops the CIC Assignment Guidelines. These guidelines were originally established by the ICCF. In January 1997, the ICCF became part of the CLC's NIIF. See n.2, supra. The ICCF was, and the INC is, open to participation by LECs, IXCs, competitive access providers, wireless carriers, and others. The administrative guidelines for both the ICCF and the INC establish the types of entities that may attend meetings. The INC administrative guidelines state: [m]eetings of the INC may be attended by Wireless Carriers, Competitive Access Providers, Exchange Carriers, Interexchange Carriers, Paging Companies, and other Industry Segments including equipment suppliers, consultants, trade associations, and government representatives; i.e., all interest groups, as well as the general public, are encouraged to participate. See INC Administrative Guidelines, INC 95-0127-005, Reissued 4/97 at p. 9. The ICCF administrative guidelines were almost identical to those of the INC, except that the guidelines referred to "Cellular Carriers," rather than to "Wireless Carriers." The ICCF guidelines also did not mention that ICCF meetings were open to the general public. See ICCF Administrative Guidelines, ICCF 92-0726-001, Revision 1, 11/16/94.

¹⁰⁶ See July 23, 1997 facsimile from Frank Colaco, Bellcore, to David O. Ward, FCC; Industry Numbering Committee Issue Identification Form, "Translations Access for Feature Group D CICs," Issue 103, Submitted and Accepted October 25, 1996.

¹⁰⁷ See Letter from Susan Miller, ATIS, to Kris Monteith, Common Carrier Bureau, Federal Communications Commission, dated October 6, 1997.

¹⁰⁸ See id.

¹⁰⁹ See TRA Comments at 2-3. MCI, based on data it received from Bellcore on May 15, 1997, regarding the average monthly rate of CIC assignments (19) and the projected period for which CICs in the 5XXX and 6XXX range will last (79 months), argues that the Commission's January 1, 1998 date for the end of the transition is

D CICs that single CIC holders may request, and the number of CIC assignments that may be demanded by new entrants into the telecommunications services market. In addition, we disagree with Telco that the assumptions used in making our estimates in the CICs Second Report and Order were too liberal.¹¹⁰ To facilitate competition in the telecommunications services market, both by incumbents and by new market entrants, it is imperative that we not underestimate CIC consumption. For the same reason, we disagree with Telco that we have overestimated the number of CICs that should be available to meet demand of unidentified new entrants during the transition.¹¹¹

31. Notice of End of Transition. Some parties argue that the Commission has given industry inadequate notice of the end of the transition from three to four-digit CICs and that the statements we made in the CICs Second Report and Order about the industry's awareness of the end of the transition were flawed.¹¹² We disagree and affirm our previous conclusion that the industry has received ample notice about the need to make changes necessary to accommodate four-digit CICs and seven-digit CACs, including the need to educate consumers about the upcoming changes. We emphasize here that our decision to implement a two-step transition to four-digit CICs, and to extend the transition slightly, is based on the concern expressed in the reconsideration record about the status of LEC switch conversion and its effect on the ability of IXCs to prepare their networks and educate their customers.

32. Telco argues that the Commission was unreasonable in expecting the industry to have invested money in upgrading systems "to implement what was at that point merely a proposal by the Commission," and interprets the CICs Second Report and Order as mandating that "the transition should begin retroactively from the date the CICs NPRM was released rather than the date the final rules were adopted."¹¹³ Telco argues that "the transition period must begin with adoption of final rules, not the notice of proposed rules."¹¹⁴ We find that Telco's argument is based on an inaccurate characterization of the Commission's statements about notice in the CICs Second Report and Order.

33. In the CICs Second Report and Order, responding to Telco's contention that the transition to four-digit CICs had not commenced because the Commission had not adopted a

unnecessarily early. See MCI Comments at 2, and Exhibit A (May 14, 1997 Letter to Stephen Engelman, MCI, from Nancy Fears, Bellcore); Ex Parte Communication of MCI, CC Docket No. 92-237 (Oct. 14, 1997).

¹¹⁰ Telco argues that we should have assumed that 50 percent of existing CIC holders with only one CIC (instead of 75 percent) would request a second CIC, and that only 75 percent of new entrants (instead of 100 percent), would request two CICs. See Telco Petition at 8-9.

¹¹¹ Id. at 9-10.

¹¹² See para. 13, *supra*; CICs Second Report and Order at para. 37.

¹¹³ Telco Reply Comments at 3.

¹¹⁴ Id. at 2.

specific transition period on the record in any final decision, we stated that Telco had not explained why the Commission must establish the beginning of the transition for CIC expansion, when the industry had already developed and begun to implement the transition plan.¹¹⁵ We noted that, in the CICs NPRM, the Commission had stated that the industry had planned for the change from three to four-digit CICs to occur during the first half of 1995.¹¹⁶ We also tentatively concluded that the industry's plan to expand three-digit Feature Group D CICs to four digits was reasonable¹¹⁷ and that the transition from three to four-digit CICs should last six years.¹¹⁸

34. In the CICs Second Report and Order, we observed that the last available three-digit CIC was assigned on March 31, 1995. Accordingly, on April 1, 1995, the transition began.¹¹⁹ Thus, the date on which the transition commenced depended solely upon when the last available three-digit CIC was assigned, not upon any date or event set by the Commission. In the CICs Second Report and Order, we did not state that the transition from three to four-digit CICs had begun on the date the Commission issued the CICs NPRM. Moreover, on reconsideration, we find that it cannot be reasonably inferred from the CICs Second Report and Order, or from any other statements issued by the Commission, that the Commission has attempted to "effectively start[] the transition period with the issuance of the NPRM rather than the issuance of the final rules adopting a transition period."¹²⁰ Therefore, we find Telco's arguments without merit.

35. Modified CIC Conservation Plan. Finally, we respond to AT&T's request that we clarify that, concurrently with the end of the transition, we will discontinue the modified conservation plan limiting to two the number of CICs an entity may be assigned and reinstate the CIC Assignment Guidelines limit of six CICs per entity.¹²¹ AT&T contends that this clarification would be consistent with "clear implications" of statements in the CICs Second Report and Order that a shorter transition will allow the Commission to end the conservation plan sooner and that the modified conservation plan is necessary as long as the transition is in place.¹²² In support of simultaneously ending the conservation plan's limit and the transition,

¹¹⁵ See CICs Second Report and Order at n.133.

¹¹⁶ Id., citing CICs NPRM, 9 FCC Rcd at 2076.

¹¹⁷ CICs NPRM, 9 FCC Rcd. at 2076.

¹¹⁸ Id. at 2077.

¹¹⁹ See CICs Second Report and Order at para. 6 and n.20, citing Long Distance Carrier Code Assignments, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, August 1995.

¹²⁰ Telco Reply Comments at 2.

¹²¹ See AT&T Comments at 5-6.

¹²² Id. 5-6.

AT&T argues that there will be no CIC shortage at that time and carriers will need additional codes to deploy new services, such as those requiring special routing and processing.¹²³

36. In the CICs Second Report and Order, we recognized the disadvantages imposed on competing providers by the conservation plan, prior to its modification. For that reason, we modified the plan to allow an entity to receive two CICs even if neither CIC would be used to offer intraLATA services.¹²⁴ We acknowledge that, even with the modifications, the conservation plan is only a temporary measure. It is necessary, as noted in the CICs Second Report and Order, only "as long as the transition continues . . . [to avoid] a flash-cut conversion to four-digit codes."¹²⁵ Nonetheless, before we can determine how many CICs an entity should be allowed to obtain (whether to allow six per entity as stated in the CIC Assignment Guidelines or some other number), the Commission must resolve issues related to CIC use and assignment. The maximum number of CICs assigned to an entity is one of many issues that is raised in a Further Notice of Proposed Rulemaking and Order released in this docket on October 9, 1997.¹²⁶ Because in the CICs Second Report and Order we did not intend to end the conservation plan and transition simultaneously, we decline to grant the clarification AT&T has requested.

37. In sum, we conclude that extending the transition by six months, from January 1, 1998, to June 30, 1998, will allow sufficient time after LEC switch conversion for carriers to educate customers about the change in CICs and CAC dialing. The length of this extension is sufficiently brief to minimize the anticompetitive effects of dialing disparity, to allow us to end the conservation plan as soon as possible, and to ensure that there are enough Feature Group D CICs in the 5XXX and 6XXX range for assignment during the remainder of the transition.

B. Grandfathering of Three-Digit CICs

1. Petitions for Reconsideration

38. VarTec asks that the Commission reconsider and vacate the mandate in the CICs Second Report and Order that five-digit CACs be eliminated and instead implement VarTec's grandfathering plan. VarTec argues that the Commission's decision to eliminate five-digit CACs will cause customer confusion and result in a diminution of business for smaller dial-around long distance telephone services, that will force them to compete to

¹²³ Id. at 6-7. AT&T notes that the Southwestern Bell Texas tariffs, which created the CIC consumption problem, and led to the conservation plan requested by Bellcore, have already been revised. Id. at 7.

¹²⁴ See CICs Second Report and Order at para. 31.

¹²⁵ Id. at para. 30.

¹²⁶ Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), Further Notice of Proposed Rulemaking and Order, CC Docket No. 92-237, FCC 97-364 (rel. Oct. 9, 1997) (CICs FNPRM) at paras. 33-40.

become primary interexchange carriers and "expos[e] [carriers such as] VarTec to the large IXCs' predatory marketing techniques."¹²⁷ In addition, VarTec repeats arguments made in its emergency motion for stay of the CICs Second Report and Order that the decision to eliminate five-digit CACs: (1) is arbitrary and capricious in violation of the Administrative Procedure Act (APA);¹²⁸ (2) takes VarTec's private property without just compensation in violation of the Fifth Amendment;¹²⁹ (3) violates VarTec's commercial free speech rights under the First Amendment;¹³⁰ and (4) violates the Communications Act and the Regulatory Flexibility Act by creating a market entry barrier for small businesses.¹³¹

39. VarTec contends that its grandfathering plan "endorses the notion of 'first come, first serve' which the Commission has repeatedly held to be reasonable under the Act."¹³² Under VarTec's plan, all three-digit CICs starting with a "1" could no longer be used as of January 1, 1998 (the end of the transition under the CICs Second Report and Order) to avoid CAC dialing conflicts.¹³³ VarTec asserts that this plan would require the reassignment only of three-digit CICs with "1" as the first digit, but that only 70 such CICs have been assigned.¹³⁴ VarTec contends the Commission's adoption of VarTec's grandfathering plan would, in the long run, make 900 more CACs available for use than under the current expansion plan.¹³⁵ VarTec claims that software and switch reprogramming that currently allow switches to read both three and four-digit CICs beginning with a "5" or a "6" (such as 10636 --one of VarTec's CACs-- and 1016XXX) will permit the implementation of VarTec's plan.¹³⁶

¹²⁷ VarTec Petition at 6.

¹²⁸ Id. at 9-10.

¹²⁹ Id. at 10-17.

¹³⁰ Id. at 17-20.

¹³¹ Id. at 20-21.

¹³² Id. at 7-9 and nn.16-18, citing Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 15499, 16097 (1996) (Local Competition First Report and Order) (addressing pole attachments); and The Use of N11 Codes and Other Abbreviated Dialing Arrangements, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 92-105, FCC 97-51 (rel. Feb. 19, 1997) at para. 7, recon. pending (N11 First Report and Order and Further NPRM) (addressing assignment of N11 numbers).

¹³³ VarTec Petition at 4.

¹³⁴ Id.

¹³⁵ Id. at 4-5.

¹³⁶ See id. VarTec contends that, with implementation of its grandfathering plan, a switch capable of translating a five-digit CAC and a seven-digit CAC could route the following CACs: 100XX, 102XX, 103XX, 104XX, 105XX, 106XX, 107XX, 108XX, 109XX, 1010XXX, 1011XXX, 1012XXX, 1013XXX, 1014XXX, 1015XXX, 1016XXX,

40. In support of grandfathering, VarTec argues that, despite the Commission's concern that grandfathering would interfere with four-digit CICs beginning with "5" or "6," these CICs co-exist today with three-digit CICs beginning with "5" and "6" (such as VarTec's CICs "595" and "696"), and that they can continue to co-exist in the future.¹³⁷ In support of the adoption of its grandfathering plan, VarTec also cites the Commission's findings in the CICs Second Report and Order, that the existence of CACs of varying lengths during the transition did not violate section 201(b) (prohibiting unreasonable practices) or section 202(a) (prohibiting unreasonable discrimination) and that the transition is indeed reasonable and necessary to avoid a flashcut conversion.¹³⁸

41. Supporting VarTec's grandfathering proposal, Telco argues that alternatives to complete CIC expansion are necessary. According to Telco, VarTec's grandfathering plan would expand the pool of available CICs to include all four-digit CICs and all but 100 three-digit CICs. Moreover, Telco argues that the plan arguably would impose no additional requirements on switch manufacturers and operators.¹³⁹

2. Comments and Reply Comments

42. Parties supporting grandfathering argue that elimination of five-digit CACs would "threaten the competitive viability of dial-around carriers."¹⁴⁰ Grandfathering, they assert, would prevent such carriers from suffering significant losses that they would otherwise be unable to recover¹⁴¹ and that would put them at a disadvantage even with respect to new carriers relying only on seven-digit CACs.¹⁴² For example, CGI and CommuniGroup, small interexchange carriers with customers that for the most part obtain access to their services through five-digit CACs, argue that the Commission should vacate its decision to eliminate five-digit CACs, relying on all of the reasons stated in VarTec's petition.¹⁴³

1017XXX, 1018XXX, 1019XXX. Id. at 4.

¹³⁷ See id. at 5, citing CICs Second Report and Order at para. 46.

¹³⁸ VarTec Petition at 5, citing CICs Second Report and Order at para. 32.

¹³⁹ Telco Petition at 1-2.

¹⁴⁰ See Telco Reply Comments at 8.

¹⁴¹ See VarTec Reply Comments at 7 (arguing that customer reeducation is not likely to prevent confusion, and that because reeducation is such an enormous task, "VarTec is essentially being required to go through the start-up process twice").

¹⁴² See id. at 4-6. VarTec argues that the only disadvantaged carriers would be existing holders of five-digit CACs (rather than first-time CAC carriers) who would need to change to seven-digit CACs and who are in danger of losing frustrated customers thus "imposing artificial barriers to use of [their] service" and forcing them to rebuild their businesses).

¹⁴³ CGI and CommuniGroup Comments at 1-20.