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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In The Matter of

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

CC DOCKET NO. 92-237

COMMENTS OF THE
TELECOMMUNICATIONS RESELLERS ASSOCIATION
TO PETITIONS FOR CLARIFICATION AND RECONSIDERATION

The Telecommunications Resellers Association ("TRA"),¹ through undersigned counsel and pursuant to Section 1.429(f) of the Commission's Rules, 47 C.F.R. § 1.429(f), hereby opposes the Petition for Reconsideration ("Petition") filed by America One Communications Inc. ("America One") of the Commission's Order on Reconsideration in the above-referenced docket.²

¹ A national trade association, TRA represents more than 650 entities engaged in, or providing products and services in support of, telecommunications resale. TRA was created, and carries a continuing mandate, to foster and promote landline and wireless telecommunications resale, to support the telecommunications resale industry and to protect the interests of entities engaged in the resale of telecommunications services. Although initially engaged almost exclusively in the provision of domestic interexchange telecommunications services, TRA's resale carrier members have aggressively entered new markets and are now actively reselling international, wireless, enhanced and internet services. TRA's resale carrier members are also among the many new market entrants that are or soon will be offering local exchange and/or exchange access services.

² Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92-237, FCC 97-386 (released October 22, 1997) ("Reconsideration Order"). A Petition for Clarification of the Reconsideration Order has also been filed by BellSouth Corporation (BellSouth). Therein, the carrier asks the Commission whether it may "begin phased implementation of three-digit CIC blocking on July 1, 1998." Petition for Clarification at 4. While TRA expresses no view as to the validity of BellSouth's assertion that blocking of 3-digit CICs will, or should, require two months to implement, TRA agrees with BellSouth that both the text and the intent of the Reconsideration Order support the conclusion that the transition period during which 3- or 4-digit CICs and 5- or 7-digit carrier access codes ("CACs") may be utilized should extend a full six months; that is, up to and including June 30, 1998.

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In that Petition, America One urges the Commission to reinstate January 1, 1998 as the close of the transition from 3- to 4-digit carrier identification codes ("CICs") and from 5- to 7-digit carrier access codes ("CACs").

As the Commission appropriately recognized in the Reconsideration Order, extension of the CIC code transition period was necessary in order to avoid the serious adverse consequences which a "flash-cut" transformation from 3- to 4-digit CICs and from 5- to 7-digit CACs would cause carriers and consumers alike. Through its Petition, which focuses exclusively on the perceived detriment this brief extension will bring to bear on its own proposed business plan, America One seeks to revisit these consequences upon the telecommunications industry and the consuming public in order that no carrier may possess even a brief dialing advantage over America One, an entity which has only recently entered the casual calling market and thus has been assigned a 4-digit CIC. In so doing, America One myopically dismisses the record upon which the Reconsideration Order was issued and altogether fails to acknowledge that the establishment of a two-tiered implementation schedule serves important functions both for consumers and all segments of the telecommunications industry, including "casual calling" providers such as itself. These broader considerations are no less compelling now, mere days from the implementation deadline which America One seeks to have re-established, and strongly militate against any modification to the Reconsideration Order.

Among the difficulties which would accompany a flash-cut transformation from 3- to 4-digit CICs were (i) the inability to reprogram customer premises equipment in a highly compressed time period, (ii) the lack of a graceful transition period necessary to both education and acclimate consumers to the use of 4-digit CICs; (iii) the continuing unavailability of 4-digit

CIC capability in many end office switches, and (iv) the absence of a distinct local exchange carrier ("LEC") switch upgrade deadline significantly prior to the close of the transition period. As the Reconsideration Order recognizes, this last shortcoming effectively mandated a "flash-cut" conversion to 7-digit CACs while all but precluding effective consumer education efforts and affording no adjustment period during which consumers could modify their dialing habits or reprogram equipment to incorporate use of the longer codes. In its comments in this proceeding, TRA, along with virtually all other commenters, urged the Commission to eliminate unnecessary burdens on carriers and consumers by extending the close of the transition period, while at the same time maintaining the January 1, 1998 deadline as the date by which 4-digit CIC capability must be provided in all equal access-capable LEC switches. The Commission, by taking just such action, has ameliorated to some degree the difficulties occasioned by the Second Report and Order and has done so in a manner intentionally designed to minimize disruption of, or delay to, the achievement of the policy goals underlying the transition to mandatory use of 4-digit CICs.

The Reconsideration Order's modest extension of the transition period will not disproportionately harm America One or the numerous other carriers which have entered, or soon will enter the long distance market with a 4-digit CIC.³ Conversely, as the Commission has recognized, strict adherence to the January 1, 1998 deadline would have resulted in the inability of significant numbers of consumers -- including America One's customers -- to complete long distance calls on a "dial-around" basis after that date, may have caused consumers to experience call blocking because equipment upgrades or replacements could not be completed within the

³ Indeed, while a sizeable percentage of TRA's more than 650 members entered the industry at a time when 3-digit CICs were routinely assigned, a significant number have entered the market, and participate actively therein, with 4-digit CICs. TRA's comments here are submitted on behalf of all of its resale carrier members.

span of months between the release of the Second Report and Order and the January 1, 1998 effective date, and would have provided no buffer period during which consumers might adjust to suddenly inoperative routing mechanisms which had functioned perfectly merely a day earlier.

That the Commission, finding both the public interest and the procompetitive goals of the Telecommunications Act of 1996⁴ to be facilitated thereby, remains committed to “moving to the use of only four-digit CICs as soon as possible,”⁵ apparently provides little comfort to America One, whose fundamental disagreement with the Reconsideration Order appears to be that the Commission has modified the CIC transition deadline after consideration of technical implementation difficulties and the advisability of an opportunity for carriers to engage in consumer education efforts -- concerns which touch the entire telecommunications industry -- rather than intuiting that America One would “abandon[] its plans to acquire another carrier, and move[] forward with plans to roll-out a casual calling product based on its own four-digit CIC in Fall 1997” in reliance upon what the carrier characterizes as “the Commission’s adamant determination that all carriers would have to migrate to four-digit CICs by January 1, 1998.”⁶

TRA fails to see what detrimental reliance America One could have experienced by “proceed[ing] to invest in and develop a four-digit CIC-based casual calling service”⁷ on the basis of the Second Report and Order’s January 1, 1998 implementation deadline, a decision which was almost immediately upon its release the subject of multiple petitions for

⁴ Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁵ Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92-237, FCC 97-38, ¶ 25 (released October 22, 1997).

⁶ Petition at 5.

⁷ Id.

reconsideration and an emergency motion for stay,⁸ and which did not alter the ultimate requirement that all carriers must soon utilize a 4-digit CIC. Indeed, in light of the Commission's very brief extension of the transition period, America One could hardly have delayed the cited investment and development activities in any event.

America One's impassioned plea that the Commission overturn a well-reasoned decision of broad applicability to reinstate all the difficulties which the decision was meant to remedy fails to advance any interest beyond America One's parochial and self-serving agenda. Further, America One's provision of casual calling services is in no way inhibited as a result of the Reconsideration Order; the carrier, and all other carriers which have been assigned 4-digit CICs, may embark upon a casual calling service offering to precisely the same extent as if a January 1, 1998 implementation date had been retained. Indeed, the Petition indicates that America One has done exactly that.⁹ Thus, the Commission is asked to sanction the potential disruption of service to consumers for the sole purpose that every carrier might be "stuck in the same boat" as America One believes it has unfairly been placed.

The Commission is fully aware that "because customers of some carriers may need to dial seven digit CACs while those of other carriers may dial five digit CACs, there will be disparity."¹⁰ Indeed, the Commission has stated that "[w]e agree with parties arguing that a competitive disparity would result if customers of some carriers could access their services by dialing five-digit CACs, while customers of other carriers would be forced to dial seven-digit

⁸ Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92-237, FCC 97-386 at ¶ 3.

⁹ Petition at 5.

¹⁰ Administration of the North American Numbering Plan Carrier Identification Codes (CICs) Petition for Rulemaking of VarTec Telecom., Inc., 12 FCC Rcd. 8024, ¶ 8 (1997).

codes."¹¹ Identifying this disparity as "a significant reason for our decision on reconsideration to extend the transition *only for a short period*,"¹² the Commission has nonetheless held that neither "the existence of CACs of varying lengths during the transition" nor the transition itself "violate[s] Section 201(b)'s prohibition against unreasonable practices or Section 202(a)'s prohibition against unreasonable discrimination." To the contrary, the Commission has held that "[t]he transition is reasonable and necessary to avoid a flash-cut conversion to four digit CICs which would be *contrary to the public interest*."¹³

Additionally, as the Commission notes, "some LECs report that they will not convert their switches" by the January 1, 1998 deadline.¹⁴ The Commission, in the Second Report and Order, was optimistic that the number of LECs in this category will constitute a relatively small segment of the carriers subject to the January 1, 1998 implementation deadline; the Commission simultaneously cautioned carriers, however, to "continue to strive, to achieve compliance with the four-digit CIC requirement by January 1, 1998."¹⁵ Since the release of the Second Report and Order, several LECs have petitioned for, and been granted, waivers of the Second Report and Order's January 1, 1998 implementation deadline; indeed, two such waivers extend the implementation deadline for the respective LECs beyond even the June 30, 1998 close

¹¹ Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92-237, FCC 97-386 at ¶ 49.

¹² Id. (emphasis added.)

¹³ Administration of the North American Numbering Plan Carrier Identification Codes (CICs) Petition for Rulemaking of VarTec Telecom., Inc., 12 FCC Rcd. 8024 at ¶ 32 (emphasis added).

¹⁴ Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92-237, FCC 97-386 at ¶ 24.

¹⁵ Id.

of the CIC transition period.¹⁶ The existence of even a single LEC subject to the January 1, 1998 deadline which cannot, or will not, meet that implementation schedule militates strongly against grant of America One's Petition, since termination of the transition period will require the universal availability of 4-digit CIC technology if disruption of service to consumers is to be avoided.

America One has refuted none of the Commission's grounds supporting the brief extension of the CIC transition period through June 30, 1998, least of all the Commission's concern that "[a] flash-cut conversion would give . . . no warning to callers that they may no longer dial five digit CACs, but instead must dial seven digit CACs."¹⁷ Indeed, the Petition does not even acknowledge the Commission's determination that

"[i]ntroducing 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. . . 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, and that the anticompetitive effects of dialing disparity are minimized."¹⁸

¹⁶ Cuba City Telephone Exchange Company; Belmont Telephone Company; Hager Telecom, Inc.; Silver Star Telephone Company, Inc.; Deep River Mutual Telephone Company; Dixon Telephone Company; Ellsworth Cooperative Telephone Association; Frontier Communications of Schuyler, Iowa; Grand River Mutual Telephone Corporation; Griswold Cooperative Telephone Company; La Porte City Telephone Company; Ogden River Telephone Company; River Valley Telephone Coopeartive; Webb-Dickens Telephone Company ("Order"), NSD File Nos. 97-52; 97-58; 97-57; 97-62; 97-61, DA 97-2614, ¶ 5 (released December 15, 1997).

¹⁷ Administration of the North American Numbering Plan Carrier Identification Codes (CICs) Petition for Rulemaking of VarTec Telecom., Inc., 12 FCC Rcd. 8024 at ¶ 30.

¹⁸ Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92-237, FCC 97-386 at ¶ 25 (emphasis added; internal footnotes omitted).

By vigorously advocating the reinstatement of a flash-cut conversion which would not so much confer a benefit upon itself but rather, would significantly burden numerous other carriers and consumers as well, America One demonstrates clearly that its own private campaign is inconsistent with the underlying goal of the Commission in this matter, namely, the development of "a CIC expansion plan for the benefit of the entire industry".¹⁹ Accordingly, the Telecommunications Resellers Association urges the Commission to deny the Petition for Reconsideration of America One in order that consumers and carriers alike may benefit from a full six months during which equipment modifications and consumer education efforts may be undertaken in order to facilitate a smooth transition to the use of 4-digit CICs, an integral element of the Commission's CIC expansion plan.

Respectfully submitted,

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¹⁹ Id., at ¶ 51.

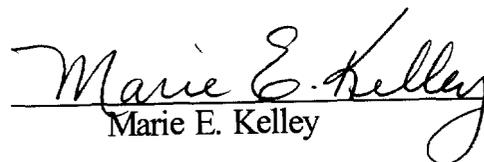
CERTIFICATE OF SERVICE

I, Marie E. Kelley, hereby certify that copies of the foregoing document were mailed this 29th day of December, 1997, by United States First Class mail, postage prepaid, to the following:

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