

1 Q Now, Mr. Screven purchases a single edition
2 file. He pays 4 cents per listing, correct?

3 A Correct.

4 Q If he produces a directory, he has paid you
5 4 cents per listing for that directory?

6 A That's right.

7 Q And that recovers your cost, correct,
8 4 cents per listing?

9 A That's correct.

10 Q If he goes to the expense to extract from
11 his publication, his directory, all of the persons in
12 a particular subdivision and publishes another
13 directory for that area then he incurs those costs,
14 correct?

15 A I'm sorry, repeat that question?

16 Q Mr. Screven publishes a directory based upon
17 the subscriber list he purchases from you.

18 A Okay.

19 Q He's published a directory. He now goes to
20 the expense of extracting from that directory
21 information about individuals who live in, let's say,
22 a particular subdivision. And he publishes a
23 directory for that subdivision. Who has incurred the
24 cost associated with that subsequent publication?

25 A He would have incurred the cost.

1 Q Does BellSouth incur any cost in that
2 instance?

3 A No, they do not. Again, the pricing
4 structure on that one is based on the value of the
5 opportunity to -- I guess limited only by his creative
6 nature as to what he would like to publish, and I
7 believe it's generally accepted in the publishing
8 industry that you license a single use or, in this
9 situation, you license multiple uses. I believe
10 that's consistent.

11 Q So the more creative Mr. Screven is, the
12 more he's going to pay you?

13 A He'll pay us 12 cents whether he produces
14 two directories or any number of directories.

15 Q But if he purchased the single edition he
16 only pays you 4 cents and that already covers your
17 cost, correct?

18 A That's correct.

19 Q So if he's ingenious and figures up a way
20 that he can make more money off of that list, you want
21 to share in his ingenuity and marketing, right?

22 A It's based on the fact that that has value;
23 that there is additional value in those incremental
24 additions. That's true.

25 Q His marketing and ingenuity has value to

1 you?

2 A His use of the listings.

3 Q Okay.

4 MR. HORTON: I'm just about through.

5 Q (By Mr. Horton) I think this has already
6 been clarified, but I just want to make sure.

7 Switching to another -- with respect to the WBAR. And
8 the tariff charged to the WBAR.

9 The charge for the WBAR is .006 per listing,
10 correct?

11 A Correct.

12 Q And that's per change or per total number
13 within the exchange? And use the hypothetical of
14 100,000.

15 A It is based on the records in the exchange.

16 Q Not on the number of changes, but on the
17 total number in that exchange?

18 A That's correct.

19 Q If I purchased the WBAR and there had been
20 no changes, I pay the .006 times 100,000 to get
21 nothing?

22 A That's right. But let me expand on that a
23 little bit.

24 My understanding of the pricing structure on
25 this one was to provide a level pricing structure for

1 significant it would be.

2 COMMISSIONER CLARK: Would you perceive that
3 in one month it might be zero and in another month it
4 might be half the number in a particular exchange?

5 WITNESS JUNEAU: I wouldn't perceive it a
6 zero. I don't know how wildly it would fluctuate but
7 I wouldn't perceive a zero.

8 COMMISSIONER CLARK: Would you agree with me
9 that the primary driver is not the difference in
10 number of difference in changes from month to month,
11 but it's notion of trying to get the same revenues out
12 of that service that you currently get by providing
13 all the numbers.

14 WITNESS JUNEAU: Commissioner, I would agree
15 that the estimate of the revenues in that scenario
16 would be the same.

17 COMMISSIONER CLARK: And when you are
18 expecting the same revenues, if you provide fewer
19 listings, necessarily, your price goes up.

20 WITNESS JUNEAU: That would be true -- well,
21 fewer listings or fewer changes.

22 COMMISSIONER CLARK: Fewer changes?

23 WITNESS JUNEAU: Fewer changes, right.

24 Q (By Mr. Horton) Mr. Juneau, let me go back
25 for a second. Except for BellSouth, where does BAPCO

1 get the information for their directories?

2 A The listing information is from BellSouth.

3 Q They don't have any other sources of
4 information for their publications?

5 A No, they do not.

6 Q Do you know if they publish directories _
7 other than the White and Yellow Pages for BellSouth?
8 Do they publish specialty directories or anything like
9 that?

10 A I have no idea what other directories they
11 publish in terms of special directories other than
12 geographical.

13 Q If they were to publish a directory for the
14 same subdivision, that hypothetical subdivision I
15 referenced you a minute ago with Mr. Screven, if they
16 were to publish a directory for that subdivision, do
17 you know if their contract rates or their prices that
18 they paid to BellSouth would be any different?

19 A Be different than they are today?

20 Q Yes.

21 A I don't know. As far as I know, it covers
22 it. I don't know. As far as I know, their rates are
23 recovered. Their use of the directory is covered in
24 the agreement we have with BellSouth today, the use of
25 the listings.

1 great value to the publishers, and it is -- they can
2 buy our service, or they can -- you can get it from
3 another spot, but if you can buy the service at what
4 we feel like is a fair price and then put it into the
5 form of directory, we feel like that is worthwhile,
6 and we feel like we have offered a very low and fair
7 price.

8 **COMMISSIONER CLARK:** We may be talking past
9 each other, because when I think of reasonable
10 contribution -- which you have said to you means
11 reasonable profit -- I think in terms of a regulated
12 profit, and it tends not to be 13,000%.

13 **WITNESS JUNEAU:** 1,300. I understand.

14 **COMMISSIONER CLARK:** 1,300. It tends not to
15 be that high.

16 **WITNESS JUNEAU:** Yes, ma'am.

17 **COMMISSIONER CLARK:** So it sounds to me like
18 what you intend to charge is what you think the value
19 of the service is in terms of what the market will
20 bear.

21 **WITNESS JUNEAU:** That has been -- whether
22 the market will bear or not is -- it seems as though
23 in other areas the market bears a considerably higher
24 price than we charge. We're completely out of line
25 with any other LEC or RBOC that provides a service.

1 conflict. You initially say you would be willing to
2 offer that to them based on cost plus a reasonable
3 contribution.

4 **WITNESS JUNEAU:** Cost plus reasonable
5 contribution and the demand that would allow us to
6 recover those costs in a reasonable amount of time.

7 **CHAIRMAN JOHNSON:** Now, would your cost at
8 all be based on what you think the market price is?

9 **WITNESS JUNEAU:** Would our costs be based on
10 the market price or ---

11 **COMMISSIONER CLARK:** I'm sorry. Would your
12 rate be charged on the market?

13 **WITNESS JUNEAU:** Our rate would be based on
14 what we perceive the value of that service to be above
15 the cost.

16 **COMMISSIONER CLARK:** Sounds to me like
17 you're saying market, whatever the market will bear
18 you will charge for that service just like you
19 apparently do for the initial listings.

20 **WITNESS JUNEAU:** Yes, Commissioner. I think
21 that's what I would characterize it to be.

22 **COMMISSIONER CLARK:** So it is not cost plus
23 a reasonable contribution?

24 **WITNESS JUNEAU:** We feel like it is a fair
25 rate, if I can speak in our defense to that. It is of

1 misunderstood it.

2 Q I asked you whether an update service was
3 first discussed in the regional negotiations between
4 BellSouth and DPDS in Louisiana. I may have cut off
5 your answer, and I'm sorry if I did.

6 A I don't know if that is -- if that was the
7 first point that was discussed or if it had been
8 discussed at some other. I'm not aware of
9 negotiations prior to the Louisiana negotiations.

10 Q But it was discussed in those --

11 A The refresh.

12 Q -- negotiations?

13 A Yes.

14 Q The monthly refresh?

15 A My understanding is the monthly refresh was
16 discussed in the Louisiana negotiations.

17 Q And did the Louisiana negotiations lead to
18 the update service as tariffed in the Louisiana --

19 A That is my understanding is that was the
20 product of those negotiations, was the update service.
21 The tariff in Florida reflected the Louisiana tariff
22 precisely on that.

23 Q In this proceeding, in your view, has FIDP
24 identified wanting something different than what is
25 currently tariffed?

1 A I understand that FIDP wants something
2 different than what is currently tariffed. I'm not
3 sure I understand exactly what that is at this point.

4 Q Just a few more questions, Mr. Juneau. When
5 BellSouth first tariffed its DPDS was a printed
6 booklet form the only allowable format for publishing
7 directories?

8 A Yes.

9 Q And currently the tariff permits directories
10 to be published in printed booklet or CD ROM format;
11 is that correct?

12 A That's correct.

13 Q Are there any other forms of directories
14 that BellSouth believes are acceptable ways to publish
15 directories under the current DPDS tariff?

16 A In the data request BellSouth specified that
17 a diskette would be equivalent to a CD ROM for the
18 definition of electronic or --

19 Q How about publication on the Internet?

20 A We would disagree with that one. BellSouth
21 sees that publication on the Internet would be a
22 directory assistance service. It is a look-up
23 service. It's a place where an individual would go
24 for a specific listing in lieu of using a directory of
25 either paper or CD ROM. It's ubiquitous at this

1 point. You can get literally any listing you want
2 in -- by looking up name, address, whatever.

3 There are a couple of sites on the Internet
4 today that do this, and they are look-up services. It
5 is precisely -- in our definition it's precisely an
6 alternative to directory assistance.

7 Q How is that different, really, from a
8 customer who is looking for a certain number, how is
9 it different -- if he were to access the Internet for
10 that information, how is that different than if he
11 were to access a printed directory for this
12 information?

13 A It would be different if he did not have a
14 printed directory in his possession.

15 Q Well, but suppose he did have a printed
16 directory in his possession.

17 A Then he potentially would get the same
18 information if the directory was up to date.

19 CHAIRMAN JOHNSON: So how is it different?

20 WITNESS JUNEAU: I'm sorry?

21 CHAIRMAN JOHNSON: How is it different?

22 WITNESS JUNEAU: How is it different?

23 CHAIRMAN JOHNSON: Yes.

24 WITNESS JUNEAU: It's different as in, I
25 think, the value that is available in directory

1 assistance in the traditional sense. People will call
2 directory assistance for a couple of reasons; one,
3 they do not have a directory, or they -- the directory
4 they have does not have the listing that they're
5 seeking, perhaps a new resident, or just don't want to
6 go get it.

7 You know, they might just choose that it's
8 easier to go ahead and call directory assistance and
9 get the information; and I think the same thing is
10 true in electronic format. CD ROM placed in a
11 computer would be roughly the equivalent of a paper
12 telephone directory, which you could look up your own
13 listing if -- however, if you can't find the CD, it's
14 scratched, for some reason it doesn't work, and you
15 can still get into your computer, you can go in and
16 look up the Internet service. It's there whenever you
17 want it and whether or not you have a directory at
18 your disposal. To me, that's the difference.

19 **CHAIRMAN JOHNSON:** Say that again. The
20 difference is if you have -- between the CD ROM and
21 the print directory, having the Internet access, how
22 is -- I guess you were saying it was more like
23 directory assistance.

24 **WITNESS JUNEAU:** It's a look-up service.
25 You know, it's similar to directory assistance. You

1 call directory assistance for a specific listing for
2 whatever reason that you don't have it by way of a
3 directory. Whether you choose to use it or do not
4 have a directory it's an alternative that provides you
5 the number in the absence of that directory.

6 The Internet is essentially the same thing.
7 It's just not tended by an individual. You just do
8 your own search, but it's a look-up that you can
9 configure yourself without the benefit of the
10 directory. And in the absence of any directory in
11 hand, any paper directory, any CD ROM, any other type
12 of directory, you can go into the Internet and look up
13 a directory listing. It's identical, in our opinion,
14 to directory assistance that BellSouth provides.

15 COMMISSIONER CLARK: It sounds to me like
16 what you're saying is the difference is it's in a
17 remote location and you have to go outside your living
18 room where you might have your phone book or your
19 computer, and you have to go seek the information from
20 an off-premises source.

21 WITNESS JUNEAU: Well, Commissioner, that,
22 in one regard that's true. It's an alternative to
23 using a physical directory.

24 COMMISSIONER CLARK: So is a CD ROM.

25 WITNESS JUNEAU: And a CD ROM is an

1 alternative to the paper directory, but it basically
2 provides you the same thing. It's a complete list of
3 all the directory -- all the directory listings, and
4 you can use your keyboard and your computer to look
5 just as you would flip through the pages of a paper
6 directory.

7 **COMMISSIONER CLARK:** Which is the same thing
8 you would do on the Internet.

9 **WITNESS JUNEAU:** But there is -- to me, the
10 difference there is that in the absence of any
11 directory, you can still go into the Internet. If you
12 have no CD ROM directory and you have no paper
13 directory but you do have your computer linked to the
14 Internet, you have directory assistance service. You
15 can look up an individual listing right there without
16 the benefit of any directory being available.

17 **CHAIRMAN JOHNSON:** Okay. That's
18 interesting, because in the absence of the computer --
19 I'm having a problem with that logic. In the absence
20 of the printed directory, certainly you can't look up
21 the numbers if that's the only source you have, but in
22 the absence of having Internet, you can't look it up
23 either.

24 The distinction that Commissioner Clark made
25 was the only distinction that I could follow

1 completely and understand.

2 WITNESS JUNEAU: But, Chairman, and to back
3 into that description too, in the absence of a printed
4 directory, in the absence of a CD ROM and no link to
5 the Internet, but if you have your telephone, you can
6 go back to directory assistance. It seems to me to be
7 an equivalent service to what you can get on the
8 Internet. It's used pretty much the same way. A
9 person who goes --

10 COMMISSIONER GARCIA: Isn't a CD ROM used
11 exactly the same way?

12 WITNESS JUNEAU: Yes, Commissioner, it could
13 be used the same way. The difference is, though,
14 again, just like a paper directory, if you can't find
15 it or for some reason it was out of date, potentially
16 the Internet is going to stay updated and be more
17 current. A CD ROM is dated. It becomes obsolete or
18 begins to obsolete at the point it's --

19 COMMISSIONER GARCIA: Isn't that pretty much
20 what your argument -- isn't that precisely what the
21 companies want is to have their service be able to be
22 updated, their directory to be updated, and isn't that
23 the problem?

24 I mean, forget the Internet. You say that
25 the Internet, except for the advantage that you just

1 placed on the Internet comparing it to directory
2 assistance, meaning that it's up-to-date information,
3 that's precisely what the complainants here want is
4 up-to-date information, isn't it?

5 WITNESS JUNEAU: Well, it's -- if the
6 purpose is to publish -- that's true, what they want.
7 They want up-to-date information, but I've heard it
8 stated for a different purpose. The purpose was have
9 up-to-date information for the delivery of directories
10 and to sell Yellow Pages advertising, but not to
11 provide directory assistance service.

12 COMMISSIONER GARCIA: Which is one of the
13 things that you'd like is definitely not to have
14 directory assistance, for them to provide that;
15 correct?

16 WITNESS JUNEAU: Not under the DPDS tariff.
17 Under the DADS tariff --

18 COMMISSIONER GARCIA: Right.

19 WITNESS JUNEAU: -- we would be willing to
20 sell to anyone, yes.

21 COMMISSIONER CLARK: In your mind, why is it
22 appropriate to have two separate tariffs for providing
23 the same information?

24 WITNESS JUNEAU: Commissioner, the reason is
25 that they -- the value of that information as it's

BellSouth Telecommunications, Inc.

January 21, 1997

Mr. Ken Bickford
The SunShine Pages
3445 N. Causeway Blvd.
4th Floor
Metairie, LA 70002

Dear Mr. Bickford:

In response to your inquiry, the following information is provided for further clarification. The BellSouth Directory Publishers Database Service (DPDS) allows a customer the right to use BellSouth white page listing information for the compilation, production, publication, correction and distribution of printed telephone directories, or CD ROM directories. The directory may be in alphabetical and /or numerically sequenced classified telephone directory format for general telephone number service. The information provided is solely BellSouth subscribers listing data as provisioned in the General Subscriber Tariff Number A38.2 which prohibits the provision of non-published or non-listed subscriber listing information. Additionally, listings for Independent Telephone Companies are not provided.

Other Local Exchange Company listing information may be obtained through negotiations as may be required by the owner of the listing data. It is recommended that you contact those entities for listing information.

If we can provide further assistance or information relative the current BellSouth DPDS product, please feel free to contact me at 1-800-615-0032.

Sincerely,



Linda L. Myler
Product Manager-Directory Publishers Database Service

September 24, 1997

Linda Myler
BellSouth
675 W. Peachtree St. NE
40M71
Atlanta, GA 30375

RE: Weekly Business Activity Reports

Dear Ms. Myler:

Please accept this as notice that we must cancel our requests for Weekly Business Activity Reports ("WBAR") in our Louisiana markets. For the last year and one-half, the WBAR has given us critical information on new businesses that have developed in a directory coverage area on an unbundled basis. BellSouth has reinterpreted its tariff to require purchase of these numbers on a bundled basis for an entire NNX. The cost has gone from a few hundred dollars to thousands of dollars due to this tariff reinterpretation. It is now cost prohibitive. Unless BellSouth honors its previous tariff procedure, we have no choice but to cancel this service and file a complaint with the Federal Communications Commission.

Very truly yours,



Marlene Patin
Vice President
Production

cc: Michael Finn, Esq.
Magdalen Blessey Bickford, Esq.
William Hammack

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service.	R.95-04-043
Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service.	I.95-04-044

**COMMENTS OF AT&T COMMUNICATIONS
OF CALIFORNIA, INC. (U 5002 C) ON THE APPROPRIATE
REGULATORY TREATMENT OF SUBSCRIBER LISTINGS DATA**

AT&T urges the Commission to conclude that the provision of subscriber listings by local exchange companies ("LECs") is an "essential service." As the incumbent monopoly publishers of white pages directories, the LECs are the sole source of a customer-listing database that is both comprehensive and up-to-the-minute. The LECs' refusal to provide nondiscriminatory access to their databases deprives the public of the advantages which flow from free competition. Any failure to find that the provision of subscriber listings is an essential service will ratify the LECs' continued exploitation of their monopoly power through anticompetitive pricing and access schemes.

Evidentiary Hearings May Not Be Required.

AT&T believes that an evidentiary hearing may not be required in this matter, since there is likely to be no dispute regarding the material facts, but

only arguments regarding the correct interpretation of these facts. Based on the instant round of comments and reply comments, the Commission can determine whether there is, indeed, a factual dispute. AT&T believes that the comments should provide an adequate record to decide whether LEC provision of subscriber listings is an essential service.

**The LECs' Current Method of Providing
Subscriber Listings Burdens
The Development of Local Competition.**

Currently, the LECs "populate" their databases for the provision of directory assistance and for publishing subscriber directories as part of the process of provisioning local exchange service. Incumbent LECs in California control well over 99% of the local exchange market and customers; as a result, they also possess monopoly power in the creation and control of the only databases that contain all customers, all the time. Moreover, virtually every Interconnection Agreement that the incumbent LECs have filed with this Commission provide for competitive local carriers ("CLCs") to provide complete and up-to-date subscriber information to the incumbent LECs for inclusion in their databases, and thus in their directory assistance and directory publishing services. Only the incumbent LEC databases contain contemporaneous sources for adds, moves and changes in the California local exchange network.

Because of their monopoly control over the latest comprehensive subscriber information, there is no way for a competitor to "work around" the LECs as a source for these data. All methods to which the incumbent LECs have, from time to time, pointed are either not contemporaneously updated or

are incomplete. Moreover, since the CLCs do not come by the information automatically through their provision of local service – either directly or through resale – to all California subscribers, it would be cost-prohibitive (if even possible) for the CLCs to try to reproduce a comprehensive, timely database that is comparable to the LECs'. This is why both Congress and the Federal Communications Commission have directed that incumbent LECs be required to provide CLCs with non-discriminatory, cost-based access to their directory assistance databases¹ and to the listings not only of their own customers, but of the customers of other CLCs.² Arguments by Pacific Bell ("Pacific") in this and other proceedings that competing providers or third-party directory vendors may obtain some listings information from alternative sources, thus, neither relieve Pacific (or the other LECs) of these statutory requirements nor demonstrate that there is any adequate substitute for the essential service that the incumbent LECs provide.

The LECs can restrain competition through discriminatory access to subscriber listings. For example, competing directory publishers need updated addresses and telephone numbers to deliver their product. Pacific has denied independent directory publishers timely updates to its published white-page-directory listings and has denied access to the addresses of new customers who order nonpublished service. By contrast, Pacific provides its own directory affiliate with a daily, service-order activity file containing subscribers' service

¹ Telecommunications Act of 1996, Pub.L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§151, *et seq.* ("the Act") at §§251(b)(3), 271(c)(2)(B)(vii); FCC First Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 (CC Docket No. 96-98, *et al.*) (hereafter "*Interconnection Order I*") at ¶¶101-102.

addresses. By such policies, the incumbent LECs can ensure that they are the only source of timely and comprehensive directory information and, thus, obtain an insurmountable competitive advantage over competitors and potential competitors.

Pacific currently furnishes independent publishers with listing updates for business subscribers only, but does not provide them daily or weekly updates for new residential subscribers. In the Interconnection Agreements it has filed, Pacific requires CLCs to provide complete subscriber listing information to it at no charge. It refuses, however, to provide CLCs with similar, up-to-the-minute information on its subscribers at no charge, so Pacific is the only carrier with a complete database for all local subscribers.

**The Seminal Antitrust Case Establishing the
"Essential Facilities" Doctrine Demonstrates
That Directory Listings Constitute an "Essential Service."**

The LECs' control and ownership of the subscriber listings can be analogized to facts in the seminal antitrust case, U.S. v. Terminal Railroad Ass'n.³ the origin of the antitrust "essential facilities" doctrine. In that case, fourteen railroad companies combined to form the Terminal Association that acquired and controlled access to the only approaches to St. Louis through a system of railroad bridges and connecting facilities. The Supreme Court found a violation of the Sherman Antitrust Act in the combination of (1) the monopolization by the Association of all railroad access to St. Louis and (2) the

² 47 U.S.C. at §271(c)(2)(B)(viii).

³ 224 U.S. 383; 56 L. Ed. 810; 32 S. Ct. 507 (1911)