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EX PARTE OR LATE FILED

March 24, 1998

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: GN Docket No. 96-115

In the matter of Implementation of the
Telecommunications Act of 1996
Telecommunications Carriers' Use of
Customer Proprietary Network Information and
Other Customer Information

Dear Ms. Salas:

On behalf of the Yellow Pages Publishers Association (YPPA), Gil Geldon (Bell Atlantic Directory Services, Inc.), Albert Halprin (Halprin, Temple, Goodman & Sugrue), and Joel Bernstein (Halprin, Temple, Goodman & Sugrue) met with Thomas Powers of Chairman Kennard's office on March 23, 1998. YPPA discussed matters relating to subscriber list information in the above captioned proceeding raised in YPPA's previous filings in the proceeding. YPPA specifically discussed the issues detailed in the attached paper. YPPA gave Mr. Powers a copy of the attached paper and of YPPA's February 27, 1998 ex parte letter.

Sincerely,

Joel Bernstein

Enclosure

cc: Thomas Powers

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SUBSCRIBER LIST INFORMATION ISSUES IN CC DOCKET 96-115

THE YELLOW PAGES PUBLISHERS ASSOCIATION

I. PRICING ISSUES

Pricing Subscriber List Information - Both the statute (47 U.S.C. 222(e)) and the report language are clear. The statute requires that listings must be made available "under reasonable and nondiscriminatory rates, terms, and conditions..." Further, the House Committee Report states that the provision ensures "that the telephone companies that gather and maintain such data are compensated for the value of the listings." H.R. Rpt. No. 104-204, Part I, 104th Cong., 1st Sess. at p. 89 (1995) (emphasis added).

Incremental Pricing is Not Appropriate - The Association of Directory Publishers (ADP) continues to ask the FCC to impose incremental pricing. Incremental pricing was rejected by Congress and every state PUC which has looked at this issue. ADP claims that BellSouth, at four cents a listing (one of the lowest prices in the nation), is earning a 1300% profit. The cost figure which ADP relies on excludes all costs of gathering, correcting, enhancing and maintaining the database, and any other costs associated with the listings and only includes the cost of transferring the data on to a magnetic tape.

Pricing for Multiple Uses and Updates may Vary from Single Use Pricing - ADP complains that prices for multiple uses and updates are more expensive per listing than prices for a single use of that listing. This is a standard business practice and is not prohibited by the statute. It is reasonable that a publisher using listings for multiple uses should pay more than the publisher using listings for a single use (the same way software licenses are more expensive when purchased for multiple users instead of a single user). Similarly, it is reasonable that updates are more expensive per listing because the information is usually much more valuable, and is typically more expensive to produce. Purchasing updates is generally less expensive than repurchasing the entire list, even though the per-listing price may be higher.

II. OTHER ISSUES

Provision of CLEC Listings - ADP has claimed that its members have had difficulty in obtaining listings from certain CLECs. YPPA agrees that CLECs, as telecommunications carriers, are required to provide subscriber listing information to directory publishers under the statute. A CLEC's refusal to provide such information is a violation of the statute. ADP, however, has asked that the FCC mandate that ILECs must provide CLEC listings to independent directory publishers, basically transferring this requirement from the CLECs to the ILECs. Such a transfer is clearly beyond the plain language of the statute, as the statute only requires that carriers provide the listings of its own customers. The obligation to provide listings applies to CLECs, and there is no reason to put this additional burden on the ILECs.

Provision of Business Classifications - ADP has complained that some LECs are not providing independent publishers with business classifications. If the LEC collects this information and gives it to its affiliated publisher, under the statute's nondiscrimination requirement, the LEC is required to give that information to independent publishers. There is no independent requirement that the LEC actually obtain this information.