

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 95-20

In the Matter of)
)
Computer III Further Remand Proceedings:)
Bell Operating Company)
Provision of Enhanced Services)
)
1998 Biennial Regulatory Review --)
Review of Computer III and ONA)
Safeguards and Requirements)

REPLY COMMENTS OF WORLDCOM, INC.

WorldCom, Inc. ("WorldCom"), by its attorneys, hereby files its reply to initial comments responding to the Further Notice of Proposed Rulemaking ("Further Notice") issued by the Commission in the above-captioned proceeding. WorldCom will limit its reply to a brief discussion of two discrete issues.

I. DISCUSSION

A. The Commission Should Abandon Its Hopelessly Flawed ONA Regime

In its initial comments, WorldCom stated that the Commission's Open Network Architecture ("ONA") program regrettably must be considered a failure, in part because so few enhanced service providers ("ESPs") are utilizing the program to any significant degree. Between its lack of fundamental unbundling, and its excessive prices, the ONA regime offers ESPs little that can be deemed attractive or useful. As a result, WorldCom posited that ONA, rather than fulfilling its original purpose of offering diverse ways for ESPs to use advanced capabilities on an unbundled basis, instead has degenerated into a poor excuse for the RBOCs

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to provide enhanced services on an integrated basis.¹

Surprisingly, the RBOCs filed comments that actually lend additional support to WorldCom's observations. The RBOCs discuss at great length how the integration of basic and enhanced services allowed under ONA has been entirely beneficial, at least from the RBOCs' own unique perspectives. When it comes to detailing how ESPs themselves have benefited in any material way from ONA, however, the RBOCs are largely mute. Indeed, several RBOCs appear to admit that the ESPs are receiving no benefits at all from ONA. US West states that, despite "burgeoning growth of the ESP industry," this growth "has occurred coincident with a decline in requests for ONA services."² By way of example, US West reports that it received only one request from an ESP for a new ONA feature (either BSA or BSE) in 1996, and no requests at all in 1997.³ Similarly, Bell Atlantic states that it believes that "extremely few [ESPs] have taken advantage of the [ONA] process."⁴ Bell Atlantic calculates that pre-merger Bell Atlantic and NYNEX together "received fewer than a dozen new ONA requests in the ten years since ONA has been implemented."⁵

While the RBOCs likely interpret the lack of ESP participation in ONA as a sign

¹ WorldCom Comments at 3-6.

² US West Comments at 10.

³ US West Comments at 10.

⁴ Bell Atlantic Comments at 16-17.

⁵ Bell Atlantic Comments at 17 n.33.

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that ESPs are completely satisfied with current federal access arrangements,⁶ WorldCom suggests another view altogether. As US West attests, the information services industry of the 1990s has been characterized by explosive growth in demand, and a flood of new technologies and services. In the midst of all this unprecedented success, the fact that ESPs essentially are seeking no new service arrangements or capabilities from the RBOCs under the auspices of the ONA regime must indicate that ONA is not playing any real part of the industry's success. No one should be satisfied with this dubious status quo.

To date, the Commission has declined to reopen the record in this proceeding to determine how and why the ONA regime has failed to serve its intended beneficiaries -- the ESPs. In WorldCom's view, if the Commission is not truly committed to undertaking such a thorough and searching review process, the ONA regime should be terminated altogether. There is no public interest need for a regulatory structure that advances the RBOCs' integration goals and denies ESPs true choices in interconnecting with the RBOCs' networks, all in the name of promoting new information services. Rather than devoting its limited resources to propping up ONA for yet another legal challenge in the federal courts, the Commission should take whatever steps are necessary to pull the plug on ONA, once and for all. The Commission would be far better served to promote the legitimate interests of the ESP community by fostering local exchange competition and reducing interstate access charges closer to economic cost.

⁶ See US West Comments at 10-11.

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B. The FCC Must Resolve, Not Dismiss, Outstanding CEI Matters, Including WorldCom's Long-Pending Petition To Reconsider The Lawfulness Of Bell Atlantic's Offering Of Internet Access

While WorldCom stated in its initial comments that it does not necessarily object to the Commission removing the CEI requirement in favor of ONA, or Section 251(c)(3) unbundling requirements, WorldCom strongly objected to the Further Notice's suggestion that pending CEI matters be dismissed without final decision. In particular, WorldCom directed the Commission's attention to a petition for reconsideration pending before the Commission's Common Carrier Bureau since July 1996 challenging the Bureau's earlier grant of a CEI plan for Bell Atlantic's Internet access service.⁷ That petition, filed by MFS Communications (now a wholly-owned subsidiary of WorldCom), explained that Bell Atlantic's CEI plan violates the 1996 Act by offering bundled, in-region interLATA information services without receiving Section 271 authorization, or utilizing a Section 272 separate subsidiary. Other RBOCs also appear to be violating these statutory mandates. Nonetheless, over twenty months after MFS filed its petition, and despite WorldCom's repeated written and verbal requests for timely Bureau action, MFS' original petition remains pending.

Predictably, most of the RBOCs agree with the proposal that all pending CEI matters should be dismissed without any resolution.⁸ However, the RBOCs present no sound legal or policy arguments for this conclusion. In the case of the MFS petition, there is no good

⁷ WorldCom Comments at 7-9.

⁸ SBC Comments at 30 n.72; US West Comments at 26; BellSouth Comments at 22 n.48.

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reason why the full Commission's clear, unchallenged legal conclusions in its Non-Accounting Safeguards Order -- acknowledging the precise conditions under which the RBOCs are allowed to provide Internet access service -- should not be enforced by the Common Carrier Bureau in an outstanding CEI proceeding. Once again, WorldCom calls on the Bureau to take final action on the pending MFS petition.⁹

⁹ Separately, WorldCom notes that the Commission recently announced the formation of "Federal/State biennial oversight teams" to determine whether the RBOCs have "complied with the requirements of Section 272 and any regulations promulgated under Section 272." Public Notice, "Public Notice To Announce Regional Oversight Team Members," DA 98-426, issued March 2, 1998, at 1. WorldCom intends to ask these audit oversight teams to examine whether the RBOCs' provision of Internet access services violates Sections 271 and 272 of the Act.

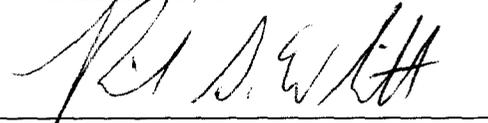
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II. CONCLUSION

If the Commission is not serious about fundamentally reforming its fatally-flawed and grossly underutilized ONA program, it should immediately terminate the program altogether. In the meantime, the Common Carrier Bureau should resolve in a timely fashion all outstanding CEI matters -- including the MFS petition for reconsideration of Bell Atlantic's CEI plan to provide Internet access service -- prior to taking any steps to eliminate the CEI requirement.

Respectfully submitted,

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