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

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| In the Matter of                    | ) |                      |
|                                     | ) |                      |
| Administration of the               | ) | CC Docket No. 92-237 |
| North American Numbering Plan       | ) |                      |
| Carrier Identification Codes (CICs) | ) |                      |

**DECLARATORY RULING**

**Adopted:** May 1, 1998

**Released:** May 1, 1998

**By the Deputy Chief, Common Carrier Bureau:**

**I. INTRODUCTION**

1. In a letter dated March 6, 1998,<sup>1</sup> BellSouth Corporation (BellSouth) requests that we clarify the Commission's requirements regarding the blocking of three-digit carrier identification codes (CICs), adopted by the Commission in the CICs Order on Reconsideration.<sup>2</sup> Specifically, BellSouth states that it is uncertain as to whether phased blocking of three-digit CICs should be completed by June 30, 1998, or whether it should begin phased blocking on July 1, 1998.<sup>3</sup> BellSouth explains that it needs clarification by May 1, 1998, to comply with the CICs

<sup>1</sup> Request for Expedited Declaratory Ruling from Theodore R. Kingsley, General Attorney, BellSouth Corp. (BellSouth), to A. Richard Metzger, Jr., Chief, Common Carrier Bureau, Federal Communications Commission, dated March 6, 1998 (BellSouth Request).

<sup>2</sup> Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), Order on Reconsideration, Order on Application for Review, and Second Further Notice of Proposed Rulemaking, CC Docket No. 92-237, FCC 97-386 (rel. Oct. 22, 1997) (CICs Order on Reconsideration), appeal pending sub. nom, VarTec Telecom, Inc. and Communigroup, Inc. v. FCC, No. 97-1706 (D.C. Cir.). Prior to the release of the CICs Order on Reconsideration, the Commission issued a Further Notice of Proposed Rulemaking in this docket. See 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). The issues raised in the CICs FNPRM are unrelated to issues we address here.

<sup>3</sup> BellSouth Request at 1.

Order on Reconsideration if the Commission intended that absolutely no three-digit CICs are to pass after June 30, 1998.<sup>4</sup> BellSouth requests that the Common Carrier Bureau (Bureau), acting pursuant to proper delegated authority, remove the present uncertainty and terminate the controversy concerning the appropriate time to implement phased blocking of three-digit CICs.<sup>5</sup>

2. On March 18, 1998, MCI filed an ex parte letter with the Bureau seeking to alert the Bureau to the "urgent need to immediately take action to extend the permissive dialing period."<sup>6</sup> MCI alleges that "[s]everal significant events" have made it impossible to complete the transition to four-digit CICs by June 30, 1998, as ordered in the CICs Order on Reconsideration.<sup>7</sup> In addition, MCI objects to the standard intercept message adopted by the Network Interconnection and Interoperability Forum (NIIF) in February 1998 to explain the dialing pattern change necessitated by the conversion to four-digits CICs<sup>8</sup> and requests that the Commission resolve an alleged "impasse" concerning this message.<sup>9</sup> In an ex parte letter filed on March 23,

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<sup>4</sup> BellSouth Request at 2.

<sup>5</sup> BellSouth acknowledges its earlier filed Petition for Clarification requesting identical clarification of the CICs Order on Reconsideration. Petition for Clarification of BellSouth Corporation, CC Docket No. 92-237, November 26, 1997 (BellSouth Petition). It notes that a complete record has been developed on the issue in response to that petition. See Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, Notice, Report No. 2242 (Dec. 8, 1997). Four parties, AT&T Corp. (AT&T), MCI Communications Corp. (MCI), the SBC Companies (consisting of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell) and U S WEST, Inc. (U S WEST), filed comments on the BellSouth Petition. Three parties, VarTec Telecom, Inc. (VarTec), MCI and BellSouth, filed reply comments. BellSouth notes that the Notice also pertained to a Petition for Reconsideration filed by America One Communications, Inc., on November 20, 1997. See Petition for Reconsideration of America One Communications, Inc. (America One Petition), CC Docket No. 92-237, November 20, 1997 (America One Petition). BellSouth states that its request is limited, however, to the controversy over the correct interpretation of the CICs Order on Reconsideration, and not to the merits of the America One Petition. BellSouth states that its present request is prompted by BellSouth's concern that the full Commission will be unable to act upon its Petition for Clarification by May 1, 1998. Because action by the Bureau will render moot the pending BellSouth Petition for Clarification, BellSouth states that it will formally withdraw that petition if the Bureau acts upon its present request. BellSouth Request at 2.

<sup>6</sup> Ex Parte Letter from Jonathan B. Sallet, Chief Policy Counsel, MCI, to Richard Metzger, Chief, Common Carrier Bureau, Federal Communications Commission, dated March 17, 1998 (MCI Ex Parte Letter).

<sup>7</sup> MCI Ex Parte Letter at 1. See, infra., para. 21, for a discussion of the factors MCI cites to support its request.

<sup>8</sup> In its October 22, 1997, CICs Order on Reconsideration, the Commission directed all LECs to consult with IXCs and reach agreement on the content of a standard intercept message and the period of time during which the message would be offered. The Commission concluded that LECs must begin offering 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 action. CICs Order on Reconsideration at para. 26.

<sup>9</sup> MCI Ex Parte Letter at 5.

1998, VarTec Telecom Inc. (VarTec), on the other hand, requests that the Commission require all local exchange carriers (LECs) to use the NIIF standard intercept message or to file a waiver exempting them from the use of that message.<sup>10</sup> VarTec also states that the Commission should mandate that the standard intercept message remain operative for a minimum of six months.<sup>11</sup> Both MCI and VarTec object to the use of Special Information Tones (SITs) in conjunction with the intercept message.<sup>12</sup> The Bureau sought comment on the requests from MCI and VarTec in a Public Notice dated March 26, 1998.<sup>13</sup>

3. In this Order, we clarify that the CICs Order on Reconsideration requires the transition from three to four-digit CICs to end on June 30, 1998, and that carriers begin blocking three-digit CICs no earlier than July 1, 1998. Further, on our own motion and pursuant to delegated authority,<sup>14</sup> we grant a waiver of the July 1, 1998 deadline for the complete blocking of all three-digit CICs, as required by the CICs Order on Reconsideration, to allow a phase-out of three-digit CICs by carriers, where necessary, with all blocking completed no later than September 1, 1998. In reaching this decision, we take notice of the record developed in response to BellSouth's petition. Further, we find that MCI has presented no new facts on which the Bureau could recommend to the Commission that it reconsider the decision reached in the CICs Order on Reconsideration to end the permissive dialing period on June 30, 1998. Finally, we conclude that the standard intercept message developed by the NIIF complies with the standard intercept message requirement set by the CICs Order on Reconsideration and we decline to interfere with standard industry practices concerning the use of SITs and the duration of the use of the intercept message. Although other intercept messages may be used, we interpret the CICs Order on Reconsideration to require that any message used by a LEC must provide instructions with respect to the dialing pattern change and how a call may be properly completed, and direct callers to contact their interexchange carrier (IXC) for further information. We conclude that a

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<sup>10</sup> Ex Parte Letter from James U. Troup and Robert H. Jackson, Arter & Hadden, Attorneys for VarTec, to Geraldine Matise, Chief, Network Services Division, Common Carrier Bureau, Federal Communications Commission, dated March 23, 1998 (VarTec Ex Parte Letter) at 3.

<sup>11</sup> VarTec Ex Parte Letter at 4.

<sup>12</sup> MCI Ex Parte Letter at 4; VarTec Ex Parte Letter at 3-4.

<sup>13</sup> Commission Seeks Comment on Requests for Commission Action Filed by MCI Telecommunications Corporation and VarTec Telecom, Inc. Concerning Carrier Identification Codes (CC Docket No. 92-237), Public Notice, DA 98-591 (rel. Mar. 26, 1998). Comments were filed by AT&T, Bell Atlantic; BellSouth; Excel Communications, Inc. (Excel); GTE Service Corporation (GTE); Qwest Communications Corporation (QCC); SBC; Sprint Corporation (Sprint); Telecommunications Resellers Association (TRA); U S WEST; United States Telephone Association (USTA).

<sup>14</sup> 47 C.F.R. §§ 1.3, 0.91, and 0.291.

message that does not meet these criteria may be an unreasonable practice under section 202(a)<sup>15</sup> of the Communications Act of 1934,<sup>16</sup> as amended by the Telecommunications Act of 1996.<sup>17</sup>

## II. BACKGROUND

4. CICs are numeric codes that enable LECs providing interstate interexchange access services to identify the interstate IXC that the originating caller wishes to use to transmit its interstate call.<sup>18</sup> 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 either by presubscription or by dialing a carrier access code, or CAC, which incorporates the carrier's unique Feature Group D CIC.<sup>19</sup> Originally, CICs were unique three-digit codes (XXX) and CACs were five-digit codes incorporating the CIC (10XXX).

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<sup>15</sup> 47 U.S.C. § 202(a).

<sup>16</sup> 47 U.S.C. §§ 151 *et seq.* ("Communications Act" or "Act").

<sup>17</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act").

<sup>18</sup> 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.

<sup>19</sup> 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. Feature Group D/equal access offers features, including presubscription, not generally available through other forms of access. 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 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.

5. On April 11, 1997, in the CICs Second Report and Order,<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> In the CICs Second Report and Order, 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.<sup>23</sup> The Commission's decisions were intended to advance the pro-competitive objectives of the Communications Act.

6. On October 22, 1997, in the CICs Order on Reconsideration, the Commission modified the 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 created a "two-step" end to the transition to four-digit CICs.<sup>24</sup> Under the CICs Order on Reconsideration, all LECs that provide equal access must have completed switch changes to recognize four-digit CICs by January 1, 1998, the end of the first phase.<sup>25</sup> The second phase, which ends on June 30, 1998, is intended to allow interexchange carriers time to prepare their networks for, and educate their customers about, the replacement of three-digit CICs by four-digit CICs.<sup>26</sup> After June 30, 1998, only four-digit CICs and seven-digit CACs will be used.<sup>27</sup> The Commission also affirmed its 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.<sup>28</sup> In addition, the CICs Order on Reconsideration directed all LECs to offer a standard intercept message to inform callers that a

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<sup>20</sup> 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) (CICs Second Report and Order).

<sup>21</sup> See CICs Second Report and Order at para. 28.

<sup>22</sup> See Handler Letter at 2.

<sup>23</sup> See CICs Second Report and Order at para. 46.

<sup>24</sup> CICs Order on Reconsideration at paras. 20-26.

<sup>25</sup> See id. at paras. 20, 25.

<sup>26</sup> See CICs Order on Reconsideration at paras. 20, 25.

<sup>27</sup> See id. at para. 20.

<sup>28</sup> CICs Order on Reconsideration at paras. 47-75.

dialing pattern change has occurred, as a result of the expansion from three to four-digit CICs, and to instruct the caller to contact its interexchange carrier for further information. The intercept message must be offered on or before June 30, 1998.<sup>29</sup>

7. In response to petitions filed by small LECs seeking waivers of the CICs Second Report and Order's January 1, 1998 conversion deadline, the Bureau's Network Services Division (Division) granted extensions of the conversion deadline.<sup>30</sup> The Division also granted a waiver request of a small LEC, to permit it not to process three-digit CICs (and five-digit CACs) for the remainder of the permissive dialing period.<sup>31</sup>

### III. DISCUSSION

#### A. Phase-Out of Three-Digit CICs

8. In its petition, BellSouth asks the Commission to clarify that it intended that three-digit CICs remain permissive for all carriers and their customers during the entire period of the second phase of the two-step transition, *i.e.*, until June 30, 1998. Specifically, BellSouth asks that the Commission clarify that BellSouth may, consistent with the CICs Order on

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<sup>29</sup> "[P]ursuant . . . to our general rulemaking authority, 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 on how best to cover the costs of providing an intercept message should be left to individual LECs, including whether their access customers should be charged a reasonable fee to cover those costs." CICs Order on Reconsideration at para. 26.

<sup>30</sup> Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule, Order, NSD File Nos. 97-53, 97-56, 97-46, 97-51, 97-54, 97-55, 97-47, 97-48, 97-49, 97-50, DA 97-2528 (rel. Dec. 3, 1997) (First CICs Waiver Order); Order, NSD File Nos. 97-52, 97-58, 97-57, 97-62, 97-61, DA 97-2614 (rel. Dec. 15, 1997) (Second CICs Waiver Order); Order, NSD File Nos. 97-74, 97-63, 97-78, 97-75, 97-66, 97-67, 97-65, 97-68, 97-73, 97-70, 97-72, 97-76, 97-64, 97-71, 97-69, DA 97-2691 (rel. Dec. 24, 1997) (Third CICs Waiver Order); Order, NSD File Nos. 97-80, 97-81, 97-82, 97-83, 97-84, 97-86, DA 97-2717 (rel. Dec. 31, 1997) (Fourth CICs Waiver Order); Order, NSD File No. 97-87, DA 98-29 (rel. Jan. 8, 1998) (Fifth CICs Waiver Order). Hardy Telecommunications Request for Extension of Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule, Order, NSD File No. 98-18 (rel. Mar. 30, 1998) (Sixth CICs Waiver Order); Pierce Telephone Company, Inc. Request for Extension of Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule, Order, NSD File No. 98-51 (rel. Apr. 9, 1998).

<sup>31</sup> Request for Waiver of Five-Digit Carrier Access Code (CAC) Dialing During the Permissive Dialing Period, Order, NSD File No. 97-85, DA 98-160 (rel. Jan. 28, 1998) (Border to Border Waiver Order).

Reconsideration: (1) begin a phase-out of three-digit CICs on July 1, 1998; and (2) maintain effective tariffs for three-digit CIC call routing and charges occurring on or after July 1, 1998, to cover calls completed during the phase-out of three-digit CICs.<sup>32</sup> In the alternative, if the Commission intended that, after July 1, 1997, no calls could be completed using three-digit CICs, BellSouth asks that the Commission clarify that: (1) BellSouth may, consistent with the CICs Order on Reconsideration, begin a phase-out of three-digit CICs within its central offices on May 1, 1998, and block calls made using three-digit CICs without liability; and (2) IXCs must notify their customers that calls made using three-digit CICs may not be possible in all parts of BellSouth's service territory after May 1, 1998.<sup>33</sup>

9. BellSouth states that it believes the Commission intended, in the CICs Order on Reconsideration, to allow customers to dial either a four-digit CIC or a three-digit CIC with the assurance that their calls will complete for the entire period of permissive dialing, rather than that phase-out of three-digit CICs must begin before the end of the permissive dialing period so that after July 1, 1998, absolutely no call will complete using a three-digit CIC.<sup>34</sup> BellSouth argues that it can only accomplish three-digit CIC blocking in a phased manner because "as a matter of engineering, three-digit CIC blocking cannot be flash-cut in each and every BST switch."<sup>35</sup> BellSouth asks for clarification to enable it to determine when to begin the phase-out of three-digit CICs, which, according to BellSouth, will take two months.<sup>36</sup> BellSouth states that if the Commission agrees with its interpretation of the Commission's intent, on July 1, 1998, it plans to begin a phase-out of three-digit CICs, with completion of the blocking process in all of its central offices by September 1, 1998.<sup>37</sup> BellSouth asserts that, after September 1, 1998, calls will be able to be routed through BellSouth's central offices *only* if a four-digit CIC is used. If the Commission intended that no call could complete using a three-digit CIC after July 1, 1998, however, BellSouth states that it must begin its phase-out of three-digit CICs on May 1, 1998.<sup>38</sup> BellSouth warns that three-digit CIC dialing would no longer be "permissive" during the last two

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<sup>32</sup> See BellSouth Petition at 4.

<sup>33</sup> See id.

<sup>34</sup> See id. at 2-3.

<sup>35</sup> Id. at 2 and n.5.

<sup>36</sup> Id. at 2.

<sup>37</sup> See id.

<sup>38</sup> See id.

months of the transition, which, it asserts, would "frustrate the permissive dialing period and frustrate IXC efforts to educate customers on when four-digit CICs must be used."<sup>39</sup>

10. In ex parte letters dated April 1 and April 15, 1998, BellSouth further explains the need for a phase-out of three-digit CICs.<sup>40</sup> According to BellSouth, it must complete translations work in over 850 switches for four-digit CIC implementation.<sup>41</sup> In an additional 750 plus remote switches, the actual translations changes are performed in the associated host switches.<sup>42</sup> BellSouth explains that because of the volume and complex nature of the required translations work, a flash cut approach to three-digit CIC blocking is not possible. BellSouth reports that 139 of its switches do not have a preprogramming feature and therefore cannot be preprogrammed to convert to three-digit CIC blocking on a July 1, 1998, flash cut.<sup>43</sup> Even where its switches possess a preprogramming capability, however, BellSouth asserts that a phased implementation is the more appropriate way to implement three-digit CIC blocking.<sup>44</sup> For example, BellSouth states that its 269 Nortel DMS 100 and 100/200 switches have a batch file type preprogramming feature. BellSouth does not advocate the use of this feature for three key reasons: (1) its technicians have not been trained on the preprogramming procedure and it is not comfortable with using the procedure for a project of this magnitude; (2) translation changes in these switches are done in the "Standard Pretranslators" and must be done against every existing three-digit CIC; and, (3) any work done in a preprogramming file requires the same amount of input time as required for the switch.<sup>45</sup> Similar reasons underlie BellSouth's reluctance to use the preprogramming feature in its 41 DMS 10 Switches, and in its 414 switches manufactured by

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<sup>39</sup> Id. at 3.

<sup>40</sup> Ex Parte Letter from Ben G. Almond, Vice President-Federal Regulatory, BellSouth, to Magalie Roman Salas, Secretary, Federal Communications Commission, dated April 1, 1998 (BellSouth April 1 Ex Parte Letter); Ex Parte Letter from Theodore R. Kingsley, General Attorney, BellSouth, to Geraldine A. Matisse, Chief, Network Services Division, Common Carrier Bureau, Federal Communications Commission, dated April 15, 1998 (BellSouth April 15 Ex Parte Letter).

<sup>41</sup> BellSouth April 15 Ex Parte Letter at 2.

<sup>42</sup> Attachment to BellSouth April 1 Ex Parte Letter at 1.

<sup>43</sup> BellSouth April 15 Ex Parte Letter at 2.

<sup>44</sup> BellSouth April 15 Ex Parte Letter at 2.

<sup>45</sup> BellSouth April 15 Ex Parte Letter at 2-3.

Lucent.<sup>46</sup> In sum, BellSouth asserts that it takes more time to use preprogramming features than to phase in the switch translations.<sup>47</sup>

11. BellSouth states that the time needed to perform the translation changes will vary from an average of less than one hour for 5ESS and 1A switches to an average of six hours for other switch types.<sup>48</sup> BellSouth estimates the total time required to complete the blocking of three-digit CICs at 3,054.5 hours<sup>49</sup> BellSouth notes that this estimate does not reflect administrative activities and time required to process the work request documents that are provided to the translations work centers.<sup>50</sup> BellSouth further notes that, although it has ten centers located throughout its nine-state territory that perform all switch translations work necessary for BellSouth's switches, those translations centers must handle concurrently not only the work required for three-digit CIC blocking but all other required switch translations activities as well.<sup>51</sup> Those ongoing activities include, according to BellSouth, new NXX/NPA activations, new or modification of interexchange carriers' CICs, new or modification of trunking/traffic routing for competitive LECs (CLECs), and new or modification of translations for Integrated Services Digital Network (ISDN) customers.<sup>52</sup> BellSouth asserts that a two month phase-out period will permit it to "properly manage the tremendous workloads involved with all of these activities, not to mention implementation of local number portability."<sup>53</sup>

12. All except one of the parties commenting on BellSouth's petition support its interpretation of the CICs Order on Reconsideration as intending that three-digit CICs remain permissive for all carriers and their customers during the entire period of the second phase of the two-step transition.<sup>54</sup> Parties supporting BellSouth's position argue, for example, that the CICs

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<sup>46</sup> Id. at 3-4.

<sup>47</sup> Id. at 4.

<sup>48</sup> Attachment to BellSouth April 1 Ex Parte Letter at 1.

<sup>49</sup> Id. at 2; BellSouth April 15 Ex Parte Letter at 2.

<sup>50</sup> Id. at 1.

<sup>51</sup> Id.

<sup>52</sup> Id.

<sup>53</sup> Id.

<sup>54</sup> See SBC Companies Comments at 1-2; VarTec Reply Comments at 2; U S WEST Comments at 2-3; MCI Reply Comments at 4-5. In addition, America One, in its ex parte presentation regarding its own petition for reconsideration, stated that does not oppose the BellSouth petition, "to the extent that BellSouth envisions that the

Order on Reconsideration should be interpreted as providing for a "full permissive dialing period"<sup>55</sup> during which customers can use three-digit CICs<sup>56</sup> and benefit from carriers' education efforts.<sup>57</sup> They also support BellSouth's position that a phase-out of three-digit CICs, rather than a flash-cut conversion to recognize only four-digit CICs, is necessary.<sup>58</sup> GTE claims that it has more than 1600 switches that will need database updates with five different manufacturers represented in its inventory.<sup>59</sup> GTE estimates that the required database changes in its switches, which require entering translations in tables for each carrier and rerouting any 10XXX dialing from the carrier's trunk group to the new required standard intercept message, will exceed 7,600 hours of activity over a period of two to three months.<sup>60</sup> Moreover, although its 150 5-ESS switches may have a preprogramming capability, its more than 700 Nortel switches do not.<sup>61</sup> Similarly, SBC contends that although it can complete its conversion of 1AESS and 5EASS switches by July 25, 1998, conversion of the more complex Nortel DMS 100 switches cannot be completed properly in less than 35 working days.<sup>62</sup> SBC maintains that the remainder of the two month implementation period will be spent in testing to prevent any adverse impact on customers.<sup>63</sup> U S WEST contends that it will require approximately 900-1000 hours to complete the work to block the dialing of three-digit CICs in its 1,422 end office switches.<sup>64</sup> Because the

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end offices cutovers will begin in earnest beginning promptly on July 1, 1998, that intercept messages will be interposed by LECs on that date informing customers not to dial three (3) digit CICs, and that virtually all end office conversions will be completed within a short time thereafter." America One Ex Parte Filing at 2.

<sup>55</sup> U S WEST Comments at 2.

<sup>56</sup> See VarTec Reply Comments at 2.

<sup>57</sup> See SBC Companies Comments at 2.

<sup>58</sup> See SBC Companies Comments at 1-2.

<sup>59</sup> Ex Parte Letter from F. Gordon Maxson, Director, Regulatory Affairs, GTE, to Magalie R. Salas, Secretary, Federal Communications Commission, dated April 9, 1998 (GTE Ex Parte Letter) at 1.

<sup>60</sup> GTE Ex Parte Letter at 1.

<sup>61</sup> Id.

<sup>62</sup> Ex Parte Letter from Lincoln E. Brown, Director- Federal Regulatory, SBC, to Magalie Roman Salas, Secretary, Federal Communications Commission, dated April 2, 1998 (SBC Ex Parte Letter) at 1.

<sup>63</sup> Id.

<sup>64</sup> Ex Parte Letter from Eldridge A. Stafford, Executive Director-Federal Regulatory, U S WEST to Magalie Roman Salas, Secretary, Federal Communications Commission, dated April 9, 1998 (U S WEST Ex Parte Letter) at 1-2.

work must be scheduled during off-hours, to minimize the impact of any possible service impairments that might occur. U S WEST states that it will require approximately three months to complete all implementation work.<sup>65</sup> Only AT&T opposes BellSouth's interpretation, and suggests that if a phased-out of three-digit CICs is necessary, that carriers begin this phase-out before June 30, 1998.<sup>66</sup>

13. We hereby clarify that the CICs Order on Reconsideration requires that three-digit CICs remain permissive for the entire permissive dialing period, up to, and including, June 30, 1998. Because the record reflects varying interpretations of the CICs Order on Reconsideration, we clarify that blocking three-digit CICs prior to July 1, 1998 is prohibited. This clarification, like the CICs Order on Reconsideration, applies to all LECs providing equal access.<sup>67</sup>

14. We also agree that a phase-out of three-digit CICs may be necessary for some carriers. No party raised this issue in the rulemaking proceedings addressing the length of the transition from three to four-digit CICs, however,<sup>68</sup> or in response to petitions for reconsideration of the CICs Second Report and Order. The CICs Order on Reconsideration, therefore, does not address a phase-out of three-digit CICs. Instead, it requires LEC switches to have completed conversion to accept only four-digit CICs on July 1, 1998. As discussed below, we find that a phase-out of three-digit CICs over a short period of time is reasonable and we grant a two-month waiver of the requirement set forth in the CICs Order on Reconsideration for that purpose.

15. The Commission established the permissive dialing to allow carriers time to upgrade their networks for, and educate their customers about, seven-digit CAC dialing, and to allow callers time to adjust to the dialing changes.<sup>69</sup> In granting waivers to small LECs of the January 1, 1998 switch conversion deadline, the Division correctly stated that the LECs' "networks can, and will continue to, accept CAC calling for IXCs with three-digit CICs until the

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<sup>65</sup> Id. at 2.

<sup>66</sup> See AT&T Comments at 3.

<sup>67</sup> See CICs Order on Reconsideration at para. 25. U S WEST and VarTec ask that the Commission apply any clarification to all "affected" (U S WEST) or "involved" (VarTec) LECs. U S WEST Comments at 3; VarTec Reply Comments at 2.

<sup>68</sup> Administration of the North American Numbering Plan, Notice of Proposed Rulemaking, CC Docket No. 92-237, 9 FCC Rcd 2068 (1994); Further Comments, Carrier Identification Codes, Public Notice, CC Docket No. 92-237, DA 96-678 (Common Carrier Bureau, April 30, 1996).

<sup>69</sup> See CICs Second Report and Order at para. 27.

transition ends on June 30, 1998."<sup>70</sup> We agree with parties arguing that, if LECs were to begin a phase-out of three-digit CICs prior to June 30, 1998, it would shorten the six-month second phase of the two-step transition.<sup>71</sup> Accordingly, we decline to allow carriers to begin blocking three-digit CICs prior to that date.

16. We find reasonable, and the record supports, BellSouth's suggestion that we allow a phase-out of three-digit CICs, beginning July 1, 1998. The record establishes that the translations work required to complete three-digit CIC blocking is complex and time-intensive.<sup>72</sup> Preprogramming of switches to block three-digit CICs is not possible in all instances,<sup>73</sup> and even where technically feasible, a phase-out of three-digit CICs may be more appropriate.<sup>74</sup> The majority of parties agrees with BellSouth that a phase-out of three-digit CICs is necessary. VarTec, like BellSouth, asserts that this process will take two months.<sup>75</sup> U S WEST asserts that it "will face the same factual situation" as BellSouth and estimates that U S WEST will require approximately three months to complete all its offices.<sup>76</sup> The SBC companies assert that it will take "some period of time" to ensure that each switch, particularly DMS-100 switches, is updated to preclude recognition of the 10XXX dialing pattern, to ensure that each office is converted, to coordinate with carriers as they convert their trunk groups to four-digit CICs, and to ensure that an appropriate message is played to callers who attempt to use a three-digit CIC.<sup>77</sup> Like BellSouth,<sup>78</sup> the SBC Companies also note various other mandated implementations, such as local number portability, area code splits, and other local competition related items, that are scheduled to occur in 1998.<sup>79</sup>

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<sup>70</sup> See, e.g., Second CICs Waiver Order at para. 19.

<sup>71</sup> See MCI Comments at 3; BellSouth Reply Comments at 2-3.

<sup>72</sup> See, e.g., Attachment to BellSouth April 1 Ex Parte Letter at 2.

<sup>73</sup> See BellSouth April 15 Ex Parte Letter at 4; SBC Ex Parte Letter at 1.

<sup>74</sup> BellSouth April 15 Ex Parte Letter at 2.

<sup>75</sup> VarTec Comments at 2.

<sup>76</sup> U S WEST Comments at 2; U S WEST Ex Parte Letter at 2.

<sup>77</sup> SBC Companies Comments at 2; SBC Ex Parte Letter at 1-2.

<sup>78</sup> Attachment to BellSouth April 1 Ex Parte Letter at 1.

<sup>79</sup> Id.

17. We disagree with AT&T's argument that granting BellSouth's petition, requiring that no three-digit CIC blocking occur prior to July 1, 1998, and allowing a phase-out of three-digit CICs to begin on that date, would, in effect, extend the transition.<sup>80</sup> The Commission has not departed from its decision that the permissive dialing period will end on June 30, 1998. Thus, IXCs should be preparing their networks for, and educating their customers about, the changes that take effect on that date. Although we recognize AT&T's concerns about dialing disparity, we believe that, in this instance, those concerns are unwarranted.<sup>81</sup>

18. Throughout this proceeding, we have acknowledged that, during the transition, customers of some carriers may access them by dialing five-digit CACs while customers of other carriers must dial seven-digit CACs. We agree with BellSouth and U S WEST that after June 30, 1998, most callers will cease dialing five-digit CACs because they will have been advised of the dialing pattern change.<sup>82</sup> We recognize that, during the phase-out-period, some customers may inadvertently succeed in reaching their carrier by dialing a five-digit CAC. We conclude, however, that the concerns about dialing disparity are outweighed by the evidence that flash-cut blocking of three-digit CICs is not possible and the importance of maintaining the complete permissive dialing period.

19. MCI conditions its support of BellSouth's petition on the imposition of a Commission requirement that all LECs that are planning a phase-out of three-digit CICs, including those who received extensions of time to upgrade to four-digit CIC capability, be required to publicly disclose their pre-implementation and quality control plans.<sup>83</sup> MCI argues that this disclosure will encourage the coordinated conversion from three to four-digit CICs anticipated by the CICs Order on Reconsideration.<sup>84</sup> Specifically, MCI requests that, at a minimum, the LECs provide weekly updates of plans to reconfigure particular end offices (at least 60 days in advance of the date by which the LEC intends to reconfigure an office), explanations as to which plans were not met and why, and any changes to plans and reasons for them.<sup>85</sup>

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<sup>80</sup> AT&T Opposition to BellSouth Petition at 3-4. MCI argues that the record on BellSouth's petition indicates that an extension of the permissive dialing period is necessary. MCI Reply Comments at 2. MCI's argument is addressed below.

<sup>81</sup> AT&T Opposition to BellSouth Petition at 3-4.

<sup>82</sup> BellSouth Reply Comments at 3; U S WEST Comments at 2-3.

<sup>83</sup> MCI Comments at 4-5.

<sup>84</sup> Id. at 5.

<sup>85</sup> Id. at 5.

20. We also reject, and there is no record support for, MCI's argument that we should require LECs publicly to disclose their pre-implementation and quality control plans.<sup>86</sup> MCI's main concern is that absent the requested disclosure, "LECs could simply transition end offices at their leisure, without notifying MCI of dates and transition times . . . caus[ing] substantial disruption to MCI's educational efforts throughout the country."<sup>87</sup> We disagree. Our waiver of the requirement that all LECs complete blocking of three-digit CICs on July 1, 1998, to allow for a phase-out,<sup>88</sup> should have no impact whatsoever on the educational efforts of MCI and other IXCs. To the contrary, from a customer-education standpoint, the September 1, 1998 date is irrelevant. IXCs should be, and must continue to, inform their customers of the dialing pattern change that will take effect on July 1, 1998. IXCs' educational efforts should be completed by July 1, 1998, on the assumption that only four-digit CICs and seven-digit CACs will be accepted by LECs' networks. The fact that some dwindling percentage of calls dialed with a three-digit CIC may complete during the phase-out period should not delay or impede the customer education efforts of IXCs.

21. VarTec and MCI have again argued that the transition from three to four-digit CICs should be extended beyond June 30, 1998.<sup>89</sup> VarTec merely states that it supports extending the transition to educate more thoroughly consumers and to modify equipment, but provides no further support for its argument.<sup>90</sup> VarTec later notes, however, that if "ILEC impediments to customer education are moved soon, there will be no need to extend further the conversion to seven-digit carrier access codes."<sup>91</sup> MCI argues that uncertainty and unexpected events highlighted in the record on BellSouth's petition warrant extension of the permissive dialing period.<sup>92</sup> In its ex parte filing, MCI argues that "[i]n recent weeks, several obstacles to the completion of the transition by June 30 have arisen."<sup>93</sup> MCI references three alleged obstacles:

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<sup>86</sup> See MCI Comments at 4-5; BellSouth Reply Comments at 4-5. MCI also raises this argument in its ex parte letter of March 17, 1998. See MCI Ex Parte Letter at 5-6.

<sup>87</sup> MCI Reply Comments at 3-4; see also MCI Ex Parte Letter at 6.

<sup>88</sup> See, paras. 13-16, supra.

<sup>89</sup> VarTec Reply Comments at 2; MCI Reply Comments at 2; MCI Ex Parte Letter, passim.

<sup>90</sup> VarTec Reply Comments at 2.

<sup>91</sup> Ex Parte Letter from Robert H. Jackson, Arter & Hadden, Attorneys for VarTec, to Magalie Roman Salas, Secretary, Federal Communications Commission, dated April 14, 1998 (VarTec April 14 Ex Parte Letter), Attachment at 3.

<sup>92</sup> MCI Reply Comments at 1-2.

<sup>93</sup> MCI Ex Parte Letter at 2.

(1) an "impasse" over the intercept message to be provided by LECs to inform callers that their three-digit CIC call cannot be completed as dialed; (2) the Commission's failure to act upon the BellSouth Petition, with the end of the permissive dialing period fast approaching; and, (3) the grant of several LECs' petitions for extension of the January 1, 1998, date by which they must upgrade their switches to accommodate four-digit CICs, which according to MCI, "has resulted in a hodge-podge of transition dates across the country."<sup>94</sup> In an ex parte letter filed on April 10, 1998, Excel simply repeats MCI's arguments.<sup>95</sup>

22. Neither the BellSouth Petition nor BellSouth's request for declaratory ruling raise the issue whether the permissive dialing period should be extended, either explicitly or implicitly. Although the issue was raised in comments and ex parte presentations, no party has presented any new facts or legal basis on which we could recommend to the Commission that it reconsider its decision to end the permissive dialing period on June 30, 1998. Moreover, we continue to be concerned about the dialing disparity that exists when both three and four digit CICs are in use, that a sufficient number of CICs remains available for assignment during the transition, and the harm that is caused by uncertainty as to when the transition will end.<sup>96</sup> To eliminate any confusion, we clarify that the June 30, 1998 end of the permissive dialing period will not be extended.

23. In sum, because no party affirmatively opposes BellSouth's assertion that a phase-out of three-digit CICs is necessary, or the amount of time BellSouth asserts it needs to complete the process, we find reasonable BellSouth's suggestion that the process may take two months. On the basis of the record before us in response to the BellSouth Petition, we find it reasonable to allow LECs a period of time in which to phase-out three-digit CICs. We, therefore, grant a waiver of the July 1, 1998 deadline for the complete blocking of all three-digit CICs, as required by the CICs Order on Reconsideration, to allow a phase-out of three-digit CICs by carriers, where

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<sup>94</sup> MCI Ex Parte Letter at 2. Although MCI claims in its March 17, 1998 ex parte filing that obstacles to the completion of the transition by June 30 have arisen in "recent weeks," it presents no new facts. Indeed, apart from its claim that an "impasse" exists on the intercept message issue, which we address below, each of the points it presents in its March 17, 1998 ex parte was raised directly in its comments or reply comments on the BellSouth Petition, filed December 4, 1997, and January 4, 1998, respectively.

<sup>95</sup> Ex Parte Letter from Dana Frix, Pamela Arluk, Swidler & Berlin, Counsel for Excel Communications, Inc., to Richard Metzger, Chief, Common Carrier Bureau, Federal Communications, dated April 10, 1998 (Excel Ex Parte Letter).

<sup>96</sup> See, e.g., America One Petition; Ex Parte Letter from Norina Moy, Director, Federal Regulatory Policy and Coordination, Sprint, to Richard Metzger, Chief, Common Carrier Bureau, dated March 27, 1998 (Sprint Ex Parte Letter); Ex Parte Letter from Rachel J. Rothstein, Vice President, Regulatory and Government Affairs, Cable & Wireless, Inc., to Richard Metzger, Chief, Common Carrier Bureau, Federal Communications Commission, dated April 10, 1998 (CWI Ex Parte Letter).

necessary, with all blocking completed no later than September 1, 1998. We require that all such LECs complete the phase-out of three-digit CICs as expeditiously as possible, and no later than September 1, 1998.<sup>97</sup> We recognize that until nationwide blocking of three-digit CICs is completed, the possibility exists that some calls made inadvertently using five-digit CACs may terminate. We expect, therefore, that LECs will begin the phase-out immediately on July 1, 1998, and continue the process diligently and efficiently, seeking to complete the phase-out as soon as possible after that date, but certainly no later than September 1, 1998. As BellSouth requested in its petition, we also allow each LEC to maintain effective tariffs for three-digit CIC call routing and charges occurring between July 1, 1998 and the date the LEC completes three-digit CIC blocking.<sup>98</sup> This will allow these LECs to recover costs for calls completed during the phase-out of three-digit CICs. Consistent with our waiver to allow all three-digit CICs to be phased-out no later than September 1, 1998, we also require that any tariffs or charges for three-digit CIC call routing cease by that date.

### B. Standard Intercept Message

24. In the CICs Order on Reconsideration, in an effort to ensure a smooth transition from three to four-digit CICs, the Commission set a requirement that LECs offer a standard intercept message, beginning on or before June 30, 1998.<sup>99</sup> Although it left to LECs, consulting with IXCs, decisions about the precise content of the intercept message and the period of time during which the message must be offered, the Commission required that any intercept message explain that a dialing pattern change has occurred and instruct the caller to contact its IXC for further information.<sup>100</sup>

25. On February 11, 1998, the NIIF reached consensus that the following intercept message was to be deployed within the networks concerning the dialing pattern change resulting from the transition from three to four-digit CICs:

"Your call cannot be completed as dialed. It you dialed a 5 digit-code, it has changed. Please redial adding a one and a zero before the 5 digit code, or for assistance contact the carrier you are trying to use."

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<sup>97</sup> We note that all LECs must file a network change notification pursuant to section 251(c)(5) of the Act, 47 U.S.C. § 251(c)(5), as expeditiously as possible, in accordance with the Commission's rules governing short term public notices of network changes. See 47 C.F.R. §§ 51.325 through 51.335.

<sup>98</sup> BellSouth Petition at 4.

<sup>99</sup> CICs Order on Reconsideration at para. 26.

<sup>100</sup> Id.

The NIIF is a subcommittee of the CLC, sponsored by ATIS.<sup>101</sup> ATIS is, in turn, a standards body accredited by the American National Standards Institute. Industry representatives from 6 IXCs,<sup>102</sup> 15 LECs,<sup>103</sup> 2 trade associations,<sup>104</sup> 6 switch manufacturers<sup>105</sup> and one research organization<sup>106</sup> participated in the NIIF proceedings that resulted in the development of the CICs standard intercept message.

26. MCI participated in the NIIF proceedings, but nonetheless disagrees with the intercept message developed by the industry participants through the industry consensus process. In its March 17, 1998, ex parte letter, MCI requests that the Commission order the removal of "extraneous and unnecessary language" from the NIIF-developed intercept message. Specifically, MCI requests that the Commission order the removal of the first sentence from the NIIF-approved message.<sup>107</sup> MCI asserts that the language is unnecessary because the noncompletion of the call alerts the consumer to the fact that the call cannot be completed as dialed.<sup>108</sup> MCI contends that LECs are intentionally attempting to discourage consumers from accessing IXC services through the use of the first sentence in the intercept message, thereby perpetuating their monopolies in the intraLATA toll market as long as possible, to the detriment of the public interest.<sup>109</sup>

27. In its March 23, 1998, ex parte letter, VarTec, on the other hand, requests that the Commission take action to ensure that all LECs use the NIIF-developed standard intercept message.<sup>110</sup> VarTec argues that the Commission has already made the use of the NIIF standard intercept message mandatory for all LECs and states that any LEC choosing not to employ the

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<sup>101</sup> See, supra., n.19.

<sup>102</sup> MCI, AT&T, Sprint, WorldCom, VarTec, and Stentor.

<sup>103</sup> U S WEST, Bell Atlantic, Ameritech, BellSouth, SBC, Pacific Bell, GTE, Bell Canada, Puerto Rico Telephone Company, Cincinnati Bell, Southern New England Telephone (SNET), Sprint Local, and TeleHub.

<sup>104</sup> Cellular Telecommunications Industry Association (CTIA) and United States Telephone Association (USTA).

<sup>105</sup> AGCS, Northern Telecom (Nortel), Lucent, Siemens Stromberg-Carlson (Siemens), Alcatel Network Systems, Inc. (Alcatel), and DSC Communications (DSC).

<sup>106</sup> Bell Communications Research.

<sup>107</sup> MCI Ex Parte Letter at 3.

<sup>108</sup> MCI Ex Parte Letter at 3-4.

<sup>109</sup> MCI Ex Parte Letter at 4.

<sup>110</sup> VarTec Ex Parte Letter at 2-5.

NIIF-developed message should apply for a waiver of the CICs Order on Reconsideration.<sup>111</sup> VarTec notes that GTE, Sprint Local, and SNET have each stated that they will not use the NIIF standard intercept language.<sup>112</sup> VarTec further requests that the intercept message remain operative for a minimum of six months to ensure that customers are educated properly regarding the dialing pattern change.<sup>113</sup>

28. Both VarTec and MCI object to the use of SITs in conjunction with the intercept message.<sup>114</sup> VarTec explains that SITs are machine-detectable audio tones that identify and precede network-provided intercept messages and allow various automated devices to distinguish between live and recorded voices.<sup>115</sup> VarTec claims, however, that because SITs also are used to alert customers that a recorded message follows, it is concerned that callers may simply hang up the phone before hearing the complete message.<sup>116</sup> VarTec notes that the educational purpose of the intercept message fails if callers hang up without hearing the announcement.<sup>117</sup> MCI states that its research demonstrates that a high number of callers hang up immediately upon hearing SITs and that these callers do not wait to hear the recorded announcement.<sup>118</sup> On this basis, MCI and VarTec allege that the use of SITs in conjunction with the intercept message would be devastating to dial around carriers because customer would be unable to complete their long distance dial-around calls and therefore blame their IXCs.<sup>119</sup>

29. While we have some question about the necessity of including the first sentence of the NIIF-agreed message, we decline to order its removal. We find that the NIIF message reasonably accomplishes the goal of educating consumers about the dialing pattern change necessitated by the conversion to four-digit CICs and that MCI has not offered any evidence to bolster its claim that some callers will hang up immediately upon hearing that their call "cannot

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<sup>111</sup> VarTec Ex Parte Letter at 3.

<sup>112</sup> VarTec Ex Parte Letter at 3-4. Sprint disputes VarTec's claim, stating that it has decided to adopt the NIIF message and asserting that GTE and SNET have also decided to use the NIIF message. Sprint Comments at 2-3.

<sup>113</sup> VarTec Ex Parte Letter at 4.

<sup>114</sup> MCI Ex Parte Letter at 4-5; VarTec Ex Parte Letter at 5.

<sup>115</sup> VarTec Ex Parte Letter at 5.

<sup>116</sup> VarTec Ex Parte Letter at 5.

<sup>117</sup> VarTec Ex Parte Letter at 5.

<sup>118</sup> MCI Ex Parte Letter at 4.

<sup>119</sup> VarTec Ex Parte Letter at 2, 5; MCI Ex Parte Letter at 4.

be completed as dialed."<sup>120</sup> Indeed, Bell Atlantic claims that the industry considers this information "affirmatively helpful"<sup>121</sup> and AT&T notes that the first sentence of the NIIF-proposed message is a standard feature of recorded announcements for area code and other dialing pattern changes and provides truthful and precise information.<sup>122</sup>

30. More important, is the fact that the NIIF message was developed by industry working together to reach a consensus. We decline, consistent with the position of the majority of commenting parties, to disturb this consensus agreement simply because one party to the process disagrees with the end result of the process.<sup>123</sup> The NIIF adopted the proposed wording of the intercept message in a general NIIF session with the support of other participating IXCs.<sup>124</sup> The Commission expressly contemplated, in requiring that LECs and IXCs work together to develop a CICs intercept message,<sup>125</sup> that industry would use the processes of existing industry fora, such as the NIIF, cooperatively to develop an intercept message that satisfies the requirements of the CICs Order on Reconsideration. MCI participated in the NIIF process and noted its objections before the NIIF.<sup>126</sup> Without a definite showing of anticompetitive effect, we decline to interfere in a process that, at a minimum, the Commission implicitly endorsed in the CICs Order on Reconsideration.<sup>127</sup> As SBC states, "[t]o supersede the industry consensus because of the demands of one disgruntled party, would jeopardize this process and place a timely conversion at risk."<sup>128</sup>

31. Although we support the industry consensus process and encourage parties to use the NIIF-developed intercept message, we disagree with VarTec that the Commission mandated the use of the NIIF intercept message, or any other specific intercept message, in its CICs Order

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<sup>120</sup> See Sprint Comments at 3.

<sup>121</sup> Bell Atlantic Comments at 2 n.6.

<sup>122</sup> AT&T Comments at 3-4.

<sup>123</sup> See AT&T Comments at 4; Bell Atlantic Comments at 1-2; BellSouth Comments at 3-4; GTE Comments at 1 and Exhibit 1; SBC Companies Comments at 2; USTA Comments at 3.

<sup>124</sup> Bell Atlantic Comments at 2.

<sup>125</sup> CICs Order on Reconsideration at para. 26.

<sup>126</sup> See VarTec Ex Parte Letter, Exhibit A at 2.

<sup>127</sup> USTA Comments at 3-4 (noting that it would be difficult for industry participants to commit to industry consensus processes if the Commission were to undermine the NIIF effort without a definitive showing of harm, not exhibited by MCI in the instant case).

<sup>128</sup> SBC Companies Comments at 3.

on Reconsideration and we will not require that any LEC that does not plan to employ the NIIF intercept message to obtain a waiver of that order.<sup>129</sup> VarTec correctly states, however, that the CICs Order on Reconsideration requires the intercept message to be provided in all of a LEC's exchanges.<sup>130</sup> To the extent a LEC cannot meet that requirement in any particular exchange, the LEC must obtain a waiver of the requirement.<sup>131</sup>

32. Thus, while the precise language of the intercept message can vary, we interpret the CICs Order on Reconsideration to require the intercept message to, at a minimum: (1) explain that a dialing pattern change has occurred; (2) provide correct dialing instructions; and, (3) instruct the caller to contact its IXC for further information.<sup>132</sup> We conclude that an intercept message that does not meet these requirements may be an unreasonable practice under section 202(a) of the Act.<sup>133</sup> Although we decline to interfere in the NIIF process, or to amend the NIIF-developed standard intercept message, we find that the CICs Order on Reconsideration does not require that the standard intercept message inform callers that their call cannot be completed as dialed. We conclude that this information should be optional and that an intercept message that does not include such information would not violate section 202(a) of the Act.<sup>134</sup>

33. We recognize the concern of several parties that alternate messages might confuse customers and hinder customer education.<sup>135</sup> The Commission did not, however, mandate the use of a specific intercept message<sup>136</sup> and we conclude that any intercept message that contains the information noted above will reasonably notify callers of the dialing pattern change, regardless of the specific language that is employed. Importantly, we note that IXCs should not rely solely on an intercept message to educate their customers about changes necessitated by the transition to four-digit CICs. Rather, IXCs are, in general, responsible for ensuring that their customers are

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<sup>129</sup> See VarTec Ex Parte Letter at 3.

<sup>130</sup> See VarTec Ex Parte Letter at 4.

<sup>131</sup> See 47 C.F.R. § 1.3.

<sup>132</sup> See CICs Order on Reconsideration at para. 26.

<sup>133</sup> 47 U.S.C. § 202(a).

<sup>134</sup> See *id.*

<sup>135</sup> Excel Comments at 1-2; QCC Comments at 5; Sprint Comments at 2; TRA Comments at 5.

<sup>136</sup> CICs Order on Reconsideration at para. 26.

informed and educated about the change in dialing patterns and are free to use whatever means of education they deem appropriate.<sup>137</sup>

34. We reject VarTec's request that we order LECs to use the standard intercept message for at least six months.<sup>138</sup> Again, we note that the Commission did not mandate the use of an intercept message for any particular period of time; instead, it left to the determination of the parties the period of time during which the message should be offered.<sup>139</sup> We note that although there appears to be no clear standard for the duration of intercept messages, nothing in the record suggests that any LEC will offer the intercept message for less than six months. For example, BellSouth states that it intends to use the NIIF announcement indefinitely<sup>140</sup> and GTE proposes to use the NIIF intercept message on a permanent basis.<sup>141</sup> Bell Atlantic states that it has no plans to discontinue the use of the special industry-approved announcement at any particular time.<sup>142</sup> After determining that it is appropriate to discontinue the special announcement, Bell Atlantic indicates that it would substitute a more general announcement informing customers that their call cannot be completed as dialed and that they should call their IXC for assistance.<sup>143</sup> Ameritech and U S West report that they will use the NIIF intercept message for a minimum of six months.<sup>144</sup> Thereafter, customers would be routed to a vacant code announcement that informs them that their call cannot be completed as dialed and that they

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<sup>137</sup> CICs Order on Reconsideration at para. 26.

<sup>138</sup> VarTec Ex Parte Letter at 4.

<sup>139</sup> CICs Order on Reconsideration at para. 26.

<sup>140</sup> Ex Parte Letter from Ben G. Almond, Vice President - Federal Regulatory, BellSouth, to Geraldine A. Matisse, Chief, Network Services Division, Common Carrier Bureau, Federal Communications Commission, dated April 21, 1998 (BellSouth April 21 Ex Parte Letter) at 2.

<sup>141</sup> Ex Parte Letter from F. Gordon Maxson, Director-Regulatory Affairs, GTE, to Magalie R. Salas, Secretary, Federal Communications Commission, dated April 20, 1998 (GTE April 20 Ex Parte Letter).

<sup>142</sup> Ex Parte Letter from Marie Breslin, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, dated April 23, 1998 (Bell Atlantic April 23 Ex Parte Letter).

<sup>143</sup> Bell Atlantic April 23 Ex Parte Letter.

<sup>144</sup> Ex Parte Letter from Celia Nogales, Director-Federal Relations, Ameritech, to Renee Alexander, Network Services Division, Federal Communications Commission, dated April 21, 1998 (Ameritech April 21 Ex Parte Letter) at 1; Ex Parte Letter from Eldridge A. Stafford, Executive Director-Federal Regulatory, U S WEST, to Magalie Roman Salas, Secretary, Federal Communications Commission, dated April 22, 1998 (U S WEST April 22 Ex Parte Letter) at 1.

should call their operator for assistance.<sup>145</sup> Based on the record, we strongly encourage parties to maintain an intercept message that complies with the requirements of the CICs Order on Reconsideration for a minimum of six months and conclude that the offering of such an intercept message for less than six months may be an unreasonable practice under section 202(a) of the Act.<sup>146</sup>

35. Finally, we conclude that MCI, VarTec, and those parties supporting their position, have not established that SITs are inherently anticompetitive or that they discourage callers from listening to the intercept message.<sup>147</sup> Several parties, including VarTec, note that the use of SITs in conjunction with various types of intercept messages is standard industry practice.<sup>148</sup> As VarTec and the majority of commenting parties suggest, SITs are necessary because they allow automated detection devices to distinguish between a live voice and a recorded announcement.<sup>149</sup> Without an SIT, automated devices might interpret the three-digit CIC call announcement as a completed call, which they would not do if a SIT were used.<sup>150</sup> For example, a "smart" payphone recognizes a SIT as a signal that the call did not complete and as an instruction to return coins to the caller.<sup>151</sup> SBC also reports that carriers would be burdened by additional expenses and inconveniences if they had to make the network component alternations necessary to remove SITs from the intercept message.<sup>152</sup> USTA concludes that the Commission should allow industry to employ SITs with the intercept message on an optional basis.<sup>153</sup>

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<sup>145</sup> Ameritech April 21 Ex Parte Letter at 2; U S WEST April 22 Ex Parte Letter at 1-2.

<sup>146</sup> 47 U.S.C. § 202(a).

<sup>147</sup> MCI Ex Parte Letter at 4-5; VarTec Ex Parte Letter at 5-6; TRA Comments at 4; Qwest Comments at 5; Excel Comments at 4.

<sup>148</sup> U S WEST Comments at Attachment A; SBC Companies Comments at 4; GTE Comments at 2; AT&T Comments at 3-4; Bell Atlantic Comments at 3; VarTec Ex Parte Letter at 5;

<sup>149</sup> VarTec Ex Parte Letter at 5; Bell Atlantic Comments at 3; BellSouth Comments at 6; SBC Companies Comments at 4 .

<sup>150</sup> BellSouth Comments at 6-7; Bell Atlantic Comments at 3.

<sup>151</sup> Id.

<sup>152</sup> SBC Companies Comments at 5; see also GTE Comments at 2 (asserting that it would be premature to make a decision to remove SITs without an industry study to determine the impact of removing these tones from the various types of recording and announcement equipment).

<sup>153</sup> USTA Comments at 4-5.

36. Without any evidence of consumer adverse reaction to SITs, we decline to mandate that LECs remove SITs from the CICs intercept message. The record establishes that the use of SITs in conjunction with intercept messages is standard industry practice and that SITs permit automated detection devices to distinguish between a completed and an uncompleted call. For these reasons, we conclude that the decision as to whether SITs should be used in conjunction with the CICs intercept message is best left to determination by the parties based on their particular circumstances. We find that this approach is consistent with the approach adopted by the Commission in the CICs Order on Reconsideration, that the parties reach agreement on the exact content of the intercept message to be offered by LECs beginning on or before June 30, 1998.

#### IV. CONCLUSION

37. The decisions reached in this Order are intended to further the Commission's policy underlying numbering proceedings, of considering not only the needs of incumbents, but also those of new entrants in the telecommunications services market. In clarifying the intent of the CICs Order on Reconsideration that LECs may not begin to phase-out three-digit CICs until July 1, 1998, we reiterate the Commission's goals in extending the permissive dialing period until June 30, 1998: to allow IXCs and other carriers additional time to educate customers about the dialing pattern change without unduly extending the dialing disparity between five and seven-digit CACs or jeopardizing the availability of four-digit CICs in the 5XXX and 6XXX range. We believe that the decisions we reach in this Order benefit the public interest by providing certainty as to the end of the permissive dialing period and by eliminating customer confusion that would result from a further extension of the transition from three to four-digit CICs. Our decision to allow a phase-out of three-digit CICs, over a two month period beginning July 1, 1998 and ending September 1, 1998, benefits LECs without adversely affecting the interests of IXCs or their customers. It also allows LECs to transition to complete blocking of three-digit CICs in an orderly, efficient way that does not compromise the integrity of their networks or adversely affect the public interest. Finally, we find that the decisions we reach with respect to the offering of a standard intercept message are consistent with and promote the pro-competitive and deregulatory goals of the Communications Act, as amended.

**V. ORDERING CLAUSES**

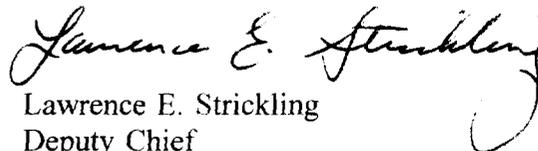
38. Accordingly, IT IS ORDERED, pursuant to Section 1.2 of the Commission's rules, 47 C.F.R. § 1.2, and authority delegated in Section 0.91 of the Commission's rules, 47 C.F.R. § 0.91, and Section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, that the Request for Expedited Declaratory Ruling of BellSouth Corporation IS GRANTED, as discussed herein.

39. IT IS FURTHER ORDERED, pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and authority delegated in Section 0.91 of the Commission's rules, 47 C.F.R. § 0.91, and Section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, that a waiver IS GRANTED, to provide a phase-out period for three-digit CICs, from July 1, 1998 until September 1, 1998, as discussed herein.

40. IT IS FURTHER ORDERED, pursuant to Section 1.41 of the Commission's rules, 47 C.F.R. § 1.41, and authority delegated in Section 0.91 of the Commission's rules, 47 C.F.R. § 0.91, and Section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, that the Request for Commission Action filed by MCI IS DENIED, as discussed herein.

41. IT IS FURTHER ORDERED, pursuant to Section 1.41 of the Commission's rules, 47 C.F.R. § 1.41, and authority delegated in Section 0.91 of the Commission's rules, 47 C.F.R. § 0.91, and Section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, that the Request for Commission Action filed by VARTEC IS GRANTED IN PART, to the extent indicated herein, and, otherwise, DENIED, as discussed herein.

FEDERAL COMMUNICATION COMMISSION



Lawrence E. Strickling  
Deputy Chief  
Common Carrier Bureau