

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Bell Operating Companies)
Petitions for Forbearance from the)
Application of Section 272 of the)
Communications Act of 1934, as Amended,)
to Certain Activities)

CC Docket No. 96-149

REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation (MCI), by its undersigned attorneys, hereby replies to the initial comments addressing the BellSouth Petition for Reconsideration of the Common Carrier Bureau's Memorandum Opinion and Order in this docket granting petitions for forbearance from the application of Section 272 of the Communications Act of 1934 to certain services (Order).¹ The initial comments filed by two of the Bell Operating Companies (BOCs) either reiterate BellSouth's contentions in its Petition, which MCI and AT&T Corp. have already fully rebutted, or request relief on incidental issues. There is therefore nothing in the record to justify reconsideration of the essential nondiscrimination requirements in the Order.

In its comments, SBC repeats BellSouth's claim that the Bureau incorrectly applied the more stringent nondiscrimination standard in Section 272(c)(1) of the Communications Act instead of the lesser nondiscrimination standard applicable to forbearance requests in Section 10(a)(1) of the Act. As MCI and AT&T have explained, however, the Bureau correctly applied the

¹ DA 98-220 (released Feb. 6, 1998).

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lower standard, finding that forbearance from Section 272 for the BOCs' interLATA E911 and reverse directory assistance services would result in unjust and unreasonable discrimination under Section 10(a)(1) unless they made the subscriber listings used in the provision of those services available to all unaffiliated entities on a nondiscriminatory basis.²

Like BellSouth, SBC is puzzled that the Bureau found that it was necessary to impose Section 272(c)(1)-type requirements under the lesser Section 10(a)(1) standard and asserts that the Bureau incorrectly equated the two standards. As MCI and AT&T have already explained, however, the Bureau did not equate the two standards; it simply found that the discrimination in access to subscriber listings that had already occurred as to both services would continue under complete forbearance unless Section 272-type nondiscrimination conditions were imposed. The Bureau explained that such access discrimination would be unjust and unreasonable because it would perpetuate the BOCs' "competitive advantages stem[ming] from [their] dominant position in the provision of local exchange services." Thus, nondiscrimination conditions were necessary to prevent unjust and unreasonable discrimination under Section 10(a)(1).³

Neither BellSouth nor SBC ever explains why it is not logically possible for discrimination to be so egregious that application of the stringent nondiscrimination standards of

² See, e.g., Order at ¶ 82.

³ Id.

Section 272(c)(1) is necessary to prevent unjust or unreasonable discrimination, which is essentially what the Bureau found in the Order. Moreover, none of the BOCs has ever explained what lesser nondiscrimination requirements would have sufficed under the Section 10(a)(1) standard. Their response that no such conditions were necessary must be rejected in light of the Bureau's finding that their discrimination in the provision of access to subscriber listings would cause their "competitive advantages stem[ming] from" their local services dominance "to persist" in the absence of Section 272-type nondiscrimination conditions.⁴

SBC also complains about the burden of compliance with various aspects of the Order, and Bell Atlantic argues that the BOCs should not be required to treat a portion of their E911 services as non-regulated for accounting purposes. As MCI indicated in its initial comments, it has no objection to an extension of time to bring the BOCs' E911 services into compliance. MCI also does not object to an extension of time to bring the accounting treatment of either of the services into compliance.

MCI must insist, however, that the nondiscrimination requirement for the reverse directory services be implemented immediately. MCI has been requesting equal access to the listings used for such services for years. The BOCs therefore cannot claim that they were not aware a long time ago that such

⁴ Id.

access was needed and that denial of such access is unreasonably discriminatory and anticompetitive.

BellSouth indicated in its Petition that it had only about 4,000 to 5,000 subscriber listings that have not been cleared for disclosure to other directory assistance providers and that it needed 30 additional days to complete the task of blocking those listings from its own reverse directory service.⁵ Presumably, since it has now been over 50 days since the original deadline, BellSouth has now completed that blocking exercise. It also seems likely that none of the other BOCs faces a significantly greater burden in blocking such listings from its reverse directory services and that the other BOCs therefore also should have completed that task by now. SBC, for example, did not specifically mention any undue burdens associated with the task of blocking from its reverse directory service those listings for which it has not obtained clearance, so it should be in compliance with that aspect of the Order. Thus, there is no reason to extend the deadline for the BOCs' compliance with the nondiscrimination requirements applicable to their interLATA reverse directory services.

⁵ BellSouth Pet. at 9 n. 21.

Accordingly, none of the initial comments provides any basis for reconsideration of the Order on the merits or any temporary relief from the nondiscrimination requirements applicable to BellSouth's or others' interLATA reverse directory services. BellSouth's Petition for Reconsideration should therefore be denied.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By: Frank W. Krogh
Frank W. Krogh
Mary L. Brown
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006
(202) 887-2372

Its Attorneys

Dated: May 27, 1998

CERTIFICATE OF SERVICE

I, Sylvia Chukwuocha, do hereby certify that a true copy of the foregoing "REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION" was served this 27th day of May, 1998, by hand-delivery or first-class mail, postage prepaid, upon each of the following persons:

Ava B. Kleinman
AT&T Corp.
295 North Maple Avenue
Room 3252J1
Basking Ridge, NJ 07920

Robert B. McKenna
Richard A. Karre
US West, Inc.
Suite 700
1020 19th Street, N.W.
Washington, DC 20036

Marlin D. Ard
Randall E. Cape
Patricia L.C. Mahoney
Pacific Telesis Group
140 New Montgomery St.,
Room 1517
San Francisco, CA 94105

Robert J. Butler
R. Michael Senkowski
Angela N. Watkins
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, DC 20006

Robert J. Gryzmala
Robert M. Lynch
Durward D. Dupre
Michael J. Zpevak
Southwestern Bell Telephone
Company
One Bell Plaza
Room 3703
Dallas, TX 75202

Edward Shakin
Bell Atlantic Telephone
Companies
and Bell Atlantic
Communications, Inc.
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

A. Kirven Gilbert III
M. Robert Sutherland
BellSouth Corporation
1155 Peachtree Street, N.E.
Suite 1700
Atlanta, GA 30309-3610

Noria T. Moy
Sprint Communications Company
1850 M Street, N.W.
Suite 1110
Washington, DC 20036

Campbell L. Ayling
NYNEX Telephone Companies
1095 Avenue of the Americas
New York, New York 10036

Michael S. Pabian
Ameritech
Room 4H82
2000 W. Ameritech Center Drive
Hoffman Estates, IL 60195-1025

Janice Myles
Common Carrier Bureau
Federal Communications
Commission
Room 544
1919 M Street, N.W.
Washington, DC 20554

ITS
Federal Communications
Commission
1919 M Street, N.W.
Room 246
Washington, DC 20554

Richard A. Muscat
Advisory Commission on
State Emergency Communications
333 Guadalupe
Suite 2-212
Austin, TX 78701-3942

David G. Frolio
BellSouth
Suite 900
1133-21st Street, N.W.
Washington, DC 20036-3351

International Transcription
Service
1231 20th Street, N.W.
Washington, DC 20554


Sylvia Chukwuocha