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February 18, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation in CC Docket No. 96-115, FCC 96-221, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information

Dear Ms. Salas:

On February 18, 1999, Evan Marwell, President of INFONXX, Inc. ("INFONXX"), a competitive directory assistance provider, and Lois Pines and the undersigned, counsel to the company, met with Commissioner Susan Ness and Linda Kinney, and Phil Weiser had a telephone conversation with Jim Casserly, to urge the Commission to adopt rules in this proceeding that effectuate the goal of Congress in adopting Section 222(e) by promoting competition in the provision of subscriber list information ("SLI") to consumers. INFONXX stated that it generally supports the position set forth by the Association of Directory Publishers but urged the Commission to craft rules that reflect the needs of directory assistance providers which have a similar need for subscriber list information because they are in direct competition with directory assistance services provided by incumbent and competitive local exchange carriers.

In particular, INFONXX urged the Commission to:

(1) clarify that Section 222(e)'s mandate of access to subscriber list information to "any person" who uses such information "for the purpose of publishing directories in any format" includes competitive directory assistance companies such as INFONXX that publish the information in oral form, because that interpretation is consistent with the statutory language of Section 222(e) and interpretations of "publish" and "publishing" found elsewhere in the Act; and

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(2) recognize in its rules that "nondiscriminatory" access means that different rate structures are necessary depending on the relevant benchmark, and that the relevant benchmark for competitive DA providers is the rate provided to competitive LECs.

The Commission Should Clarify That Sec. 222(e) Applies To Companies That Publish Directories in Oral Form.

During the meeting, representatives of INFONXX[1] urged the Commission to adopt a rule that clarifies the applicability of Section 222(e)'s mandate in favor of "any person [requesting subscriber listing data--endFN] for the purpose of publishing directories in any format," to include DA providers who publish such information orally. This conclusion is supported by a sound textual reading of Section 222(e), an analysis of other provisions in the Communications Act, and the pro-competitive policies undergirding the Telecom Act.[2]

Representatives of INFONXX outlined the numerous reasons that support this conclusion.

- The language of Section 222(e) itself mandates a broad construction because it applies to publications "in any format" - a term which presumably would include oral as well as written or electronic transmissions of subscriber listings. Congress surely knows how to limit the scope of the term "publishing" - compare, for example, Section 274's treatment of "electronic publishing" - and so when Congress refers to publishing "in any format," Congress's plain language must be given its full meaning.

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[1] In 1992, INFONXX, Inc. opened for business with five employees - the two founders and three telephone operators - and a realization that directory assistance, like customer premises equipment, long distance and local exchange, could be provided by an alternative to the incumbent monopoly. INFONXX was the first company to challenge an incumbent provider in this market and many retail customers, mostly large businesses, welcomed the opportunity to switch to an alternate provider who could deliver directory assistance (DA) services at higher quality and better prices. More recently, INFONXX has become a "carriers' carrier" for directory assistance, providing DA services to a wide array of cellular carriers, including Airtouch and Bell Atlantic Mobile, as well as to competitive local exchange carriers such as Teleport. Today, INFONXX has 800 employees, operates four call centers, handles 75-100 million calls per year and provides service in twenty-seven major markets around the country.

[2] INFONXX would be willing to certify in an appropriately constructed manner its status as a publisher of directories in any format. INFONXX agrees with the comments submitted by ADP on this point.

- The word "publish" is used elsewhere in the Communications Act, and its meaning in those provisions clearly connotes the oral dissemination of information. For example, in Section 705, 47 U.S.C. Sec. 605, the Act makes it unlawful for anyone to "divulge or publish" the contents of any unauthorized reception of communication by wire or radio. As the Commission is well aware, this provision has been used in a number of criminal prosecutions where only oral communications have been involved. Under standard canons of statutory construction, the Commission must apply terms in a statute consistently unless Congress expresses a contrary intent. Thus, in this instance, where Congress modified "publish" to include "in any format," it demonstrated intent to use the term in the same broad manner as it is used in Section 705.

- The standard usage of "publish" or "publication" in other legal contexts, most notably libel and slander law, contemplates that a person can "publish" information through media other than a written text. See, e.g., Gertz v. Welch, 418 U.S. 323, 332 (1974) ("The principal issue in this case is whether a newspaper or broadcaster that publishes defamatory falsehoods about an individual . . .").

- A traditional analysis of the statutory language Congress used supports this interpretation. Because the statute does not define the terms "publish" or "any format," it is necessary to look to outside sources to infer meaning to those terms. In the absence of a statutory definition, courts must "construe a statutory term in accordance with its ordinary or natural meaning." *FDIC v. Meyer*, 510 U.S. 471, 476 (1994) (relying on definitions contained in Black's Law Dictionary). "Courts properly assume, absent sufficient indication to the contrary, that Congress intends the words in its enactments to carry 'their ordinary, contemporary, common meaning.'" *Pioneer Investment Servs. Co. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 388 (1993) (relying on a definition contained in Webster's Dictionary) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)). Reliance upon the commonly accepted definitions contained in dictionaries is appropriate. *See, e.g., MCI Telecommunications Corp. v. AT&T Corp.*, 512 U.S. 218, 225-26 (1994) (analyzing the definitions contained in numerous dictionaries to define a statutory term). Applying these standard tools of statutory construction to Section 222(e), the Commission must conclude that DA providers are covered.

  - The verb "to publish" traditionally is defined to encompass much more than the printing of information on paper for distribution. "Publish" has been defined to mean "to make publicly known; announce, proclaim, divulge or promulgate." Webster's New World Dictionary 1087 (3d coll. ed. 1988) ["Webster's New World Dictionary"]. One "publishes" information by making it "generally known," or by "tell[ing]," or "mak[ing] generally accessible or available for acceptance or use." 2 Compact Edition of the Oxford Dictionary 1561-62 (1971) ["Oxford Dictionary"]. To "publish" information is "to utter" it. Black's Law Dictionary 1233 (6th ed. 1990). Thus, § 222(e)'s requirement that the subscriber list information must be

sought for the purpose of "publishing" includes oral, as well as written, forms of communicating that information to the public.

- Section 222(e) also specifies that the request for subscriber information must be in aid of publishing directories in "any format." A "format" is defined as "a general arrangement or plan," Webster's New World Dictionary at 530, or as a "general plan of physical organization or arrangement." Webster's Third New International Dictionary of the English Language 893 (Unabridged 1993). The word "any," which modifies "format," is defined as "one, *no matter which*, of more than two." Webster's New World Dictionary at 62 (emphasis added); *see also* Oxford Dictionary at 378. It is clear from the common usage of these terms, therefore, that Congress contemplated the provision of directory information through any possible method, not simply through written telephone books. The provision of directory information to individuals on a one-on-one basis, pursuant to a general plan and at the request of individual callers, falls within the broad meaning of "publishing directories in any format" contained in § 222(e).
- The concept of "directories" also calls for a broad meaning that can include assistance by (I) a live operator, (II) an automated voice activated system, or (III) an electronic one accessed over the Internet.

Finally, the procompetitive goals of the Telecom Act also call for a broad interpretation of this provision, since extending the protections of Section 222(e) to competitive DA providers will promote competition in this important segment of the telecommunications market.

Any Rules on Cost of Access to SLI Should Recognize That Different Rate Structures May Be Appropriate for Different Users of SLI, Depending on the Relevant Benchmark.

The Association of Directory Publishers, supported by the U.S. Small Business Administration, states that the rate for SLI for book publishers should be $.04 per listing, because that is the rate that BellSouth charges independent book publishers. *See* Comments of the Association of Directory Publishers, CC Docket No. 96-115 (June 11, 1996). INFONXX endorses the methodology advocated by ADP and the SBA: the Commission should look to appropriate and easily available benchmarks in assessing costs. However, the Commission should recognize that the appropriate benchmark for competitive directory assistance providers and the "nondiscriminatory" mandate of Section 222(e) requires that the cost of access to SLI should be the rate given to their competitors, i.e., competitive local exchange carriers under Section 251.

The dearth of information – and the difficulty of implementing a true nondiscrimination standard based on the imputed costs facing an I-LEC -- is largely due

to the fact that LECs provide directory assistance on an integrated basis and it is extremely difficult to parse out the true costs of the service. Consequently, one must look to situations where parties with a modicum of bargaining power, namely major C-LECs, have obtained SLI on commercially reasonable terms. (Excerpts from interconnection agreements entered into by AT&T and MCI are attached.) For this reason, the most efficient method of identifying that information is to examine the charge that I-LECs impose on C-LECs for access to this information. New York, however, has recognized that the rate for CLECs and competitive directory assistance providers should be developed based on a reasonable cost model that approximates the actual costs of reproducing the data. The NYPSC is now in the process of implementing this approach under its state authority and the Commission should be careful to preserve the authority of states to implement – and indeed encourage states to undertake – such market opening initiatives. (The NYPSC decision is attached.)

For the reasons stated above, the Commission at minimum should recognize in its rules that a per listing rate is a ceiling and that the appropriate benchmark for competitive DA providers is not the rate provided to independent book publishers but rather is the rate that I-LECs charge to C-LECs for the same information. In that context, the Commission should be careful not to disturb state rulings that have established reasonable rates for access to SLI by competitive DA providers.

* * * *

If you have any questions, please contact the undersigned.

Sincerely,

Gerard J. Waldron
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(202) 662-5360

Counsel to INFONXX

February 18, 1999

cc: Commissioner Ness
Ms. Kinney
Mr. Casserly

2ND DECISION of Level 1 printed in FULL format.

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PUBLIC UTILITIES REPORTS - FOURTH SERIES

NEW YORK

Re Transition to Competition in the Local Exchange Market

Re AT&T Communications of New York, Inc.

Joint complainants: MCI Telecommunications Corporation; WorldCom, Inc. dba LDDS WorldCom; The Empire Association of Long Distance Telephone Companies, Inc.
Respondents: New York Telephone Company

Re Comparably Efficient Interconnection Arrangements for Reconsideration and Business Links

AT&T Communications of New York, Inc.

Respondent: New York Telephone Company

Case 94-C-0095

Case 95-C-0657

Case 91-C-1174

Case 96-C-0036

New York Public Service Commission

187 P.U.R.4th 345

July 22, 1998

SYNOPSIS:

ORDER requiring each telephone local exchange company (LEC) to provide access to its directory database to any entity that requests it for the purpose of publishing a telephone directory or providing directory assistance service.

Each LEC must provide access to its database on the same terms as it provides access to its own directory publisher. Moreover, access must be offered at a price that is cost based and nondiscriminatory.

HEADNOTES:

1. MONOPOLY AND COMPETITION, § 83

[N.Y.] Telecommunications - Local exchange carriers - Access to directory databases - Directory publications and directory assistance service.
p. 346.

2. SERVICE, § 434

[N.Y.] Telecommunications - Competition - Directory publishing - Access to directory databases - Local exchange carriers.
p. 346.

3. SERVICE, § 449

[N.Y.] Telecommunications - Competition - Directory assistance - Access to directory databases - Local exchange carriers.
p. 346.

4. RATES, § 553

[N.Y.] Telecommunications - Access to directory databases - Cost-based, nondiscriminatory pricing - Local exchange carriers.
p. 346.

5. MONOPOLY AND COMPETITION, § 83

[N.Y.] Telecommunications - Directory publishing - Directory assistance - Access to directory databases - Customer privacy.
p. 348.

6. SERVICE, § 434

[N.Y.] Telecommunications - Competition - Directory publishing - Access to directory databases - Customer privacy - Local exchange carriers.
p. 348.

7. MONOPOLY AND COMPETITION, § 83

[N.Y.] Telecommunications - Directory publishing - Directory assistance - Competitive provision - Liability for directory errors.
p. 349.

8. SERVICE, § 434

[N.Y.] Telecommunications - Competition - Directory publishing - Liability

for directory errors.
p. 349.

Before O'Mara, chairman n1 and Helmer, Dunleavy and Bennett, commissioners.

BY THE COMMISSION: ORDER REGARDING DIRECTORY DATABASE ISSUES

SUMMARY AND BACKGROUND

This order is an outgrowth of the Competition II proceeding. Listing of customers and their telephone numbers in directories and providing directory assistance information are integral parts of telephone service. Consistent with the Public Service Law, the overall goal of regulating directory databases is to enhance telephone service and to ensure that it is provided at just and reasonable rates.

Telephone companies that maintain databases of customer information currently provide access to their databases to customers and other telephone service providers by contract. This order extends access to other entities and refines the means by which access is provided.

Local exchange companies (LECs) will be required to provide access to their directory databases to companies that request access for the purpose of publishing a directory or providing directory assistance services. LECs will be compensated for the costs of providing the access, as determined in our Networks Elements Proceeding. Each LEC is to provide access to its database on the same terms as it provides access to its own directory publisher or DA provider. Access should be provided in paper or electronic format as worked out between the parties. Treatment of and liability for directory errors will be governed by tariff provisions.

DISCUSSION

Access to Databases

[1-4] A threshold issue concerning a telephone company's directory database is what entities should be permitted access to it. Commenting LECs favor limiting access to their directory assistance databases to competing telephone service providers only. Independent providers, such as INFONXX, argue that access should be granted to any entity that provides a bona-fide telephone DA service. Parties agree that the incumbent LEC, which currently administers the DL and DA databases, should continue to do so.

Participants in the telecommunications industry must have fair access to listings for directories and DA. Such access is an integral part of and vital to the efficient use of telecommunications services, enabling carriers to provide and subscribers to have easy access to information about other subscribers. The FCC rules include white pages listings in network elements. n2

Section 251(b)(3) of the Telecommunications Act of 1996 (the Act) requires LECs to permit all competing providers of telephone exchange service and toll service, non-discriminatory access to: telephone numbers, operator services, directory assistance (DA), and directory listings (DL), with no unreasonable

dialing delays.

Section 271(c)(2)(B) of the Act requires Bell Operating Companies, that seek to offer interLATA service, to provide non-discriminatory access to: network elements, directory assistance service to allow the other carrier's customers to obtain telephone numbers, and white pages directory listings for customers of the other carrier's telephone exchange service.

In order to promote adequate telephone service at just and reasonable rates, competition in the provision of directories and directory assistance should be encouraged. Therefore, telephone corporations will be required to provide access to their directory database to competing providers of telephone exchange service and also to other entities that request the information in order to publish a directory in any format or to provide directory assistance service. Providing such access will benefit telephone customers by giving them more options for directory assistance service and choice of directories containing varied information.

Requesting entities shall be provided with a copy of the complete database, without unpublished listings, as provided in PSL section 91(5). Updates of the information shall be provided as often as the LEC updates its own databases. Services, such as NYT's Directory Assistance Database Service (DADA), which allows access on a single inquiry basis only, do not meet these access requirements.

Terms and Costs of Access to Databases

1. Terms

A second directory database issue to be considered is on what terms and conditions access to the database should be provided, including what information should be provided, the format of the information and how frequently it should be updated. Commenters agree that data should be made available in hard copy and electronic form, such as: electronic feed, magnetic tape, paper, CD Rom and diskette. If the recipient of data requests customized data beyond these formats, the recipient may be required to pay extra for the customization, as negotiated between the provider and recipient.

ATT notes that an industry wide national standard is being developed for directory listings. If such a standard is adopted by incumbent providers, problems related to formatting should diminish.

Directory listing information that must be provided shall conform to the definition of subscriber list information in Section 222(f)(3) of the Act:

"any information (A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format."

The completeness and timeliness of the data, as well as frequency of updates being provided, should be equivalent to that which the incumbent provides to its own publisher and DA provider. If any dispute arises, a party may petition the Commission for a resolution.

2. Cost of Access to Databases

Also at issue is what a company should charge for access to its database. ATT and Sprint argue that directory database information should be provided for the same price and under the same terms and conditions as it is provided to the incumbents. Citizens, NYT and RTC assert that they should not be required to supply the information at all.

Offering directory database information on an equal basis to all telephone service providers and other companies, to be used for providing directory assistance or publishing a directory, will promote competition and help to level the playing field for producing directories and providing DA, thereby promoting better service at just and reasonable rates. When directory database information is sold, all companies that contribute information to the database should be compensated in proportion to their listing contribution.

A tariffed subscriber list information service should specify the rates, charges, rules and regulations related to providing directory information. This service should provide an extract of the white pages listing information that is currently on file, including the listed name, address and telephone number of a subscriber. Unlisted and non-published listings should not be included. This service should be available solely for the purpose of providing directory and DA type services. The rates for the service should be cost based and non-discriminatory.

NYT currently offers listings to competing directory publishers on a contractual basis and suggests that prices for its listings are market based. However, according to economic theory, the more competitive the listings market, the more listings prices should resemble their underlying incremental costs. A comparison of rates charged, n3 for the provision of listings by major LECs to alternative directory publishers, shows too much of a spread in rates to suggest that these are cost based listings prices. The incremental costs of providing listings should not vary greatly from region to region and state to state. The fact that prices do vary suggests that certain states may have prices that are out of line with those that would occur in a competitive market. NYT's prices are clearly not at the lower end of the range. Unless the listing prices in other states are being subsidized, it is reasonable to conclude that NYT's prices are significantly in excess of costs. Under the terms established in the Directory License Agreement, whatever NYT charges its affiliate, NYNEX Information Resources Company (NIRC) for directory listings flows back to NYT, less NIRC's return and expenses. Thus if NYT's charges for listings to third parties are far above cost, competitors are disadvantaged.

What is determined appropriate for NYT should apply to the other LECs as well. Competitors do not have the same access to listings as the LECs. Competitors characterize the rates charged as unreasonable, discriminatory, arbitrary, excessive and anti-competitive.

Phase 3 of the Network Elements Proceeding will handle similar issues,

including unbundled network elements not yet considered. Pricing of directory database listings is referred to the Network Elements Proceeding in this Case. NYT and RTC are expected to file cost data in the Phase 3 proceeding. All incumbent LECs are directed to file tariffs consistent with the decision on pricing issues in the Network Elements Proceeding, at the conclusion of the phase of that proceeding that decides prices for directory database listings, or provide cost data justification to support a different rate.

Extended Area Service (EAS) and Expanded Listings

Extended area service is expansion of the geographic area that is considered a customer's local calling area. Customers are able to make local (non-toll) calls within these expanded areas, which may overlap LEC boundaries. Small incumbent LECs raised the issue of how companies should coordinate directory listings for EAS.

LECs should provide each other with EAS listings. The terms and cost conditions, mentioned previously, apply to EAS listings as well. If it is feasible to include the appropriate EAS listing information in a subscriber's home directory it should be done. If, however, the home directory would become too large, LECs should consider providing additional directories with this EAS information to their subscribers, at no charge. The incumbents will be adequately compensated through the additional value of their directories, which is reflected in directory advertising revenues collected.

Expanded listings may include cellular, personal communications services (PCS), pagers and messagers. No provider currently seeks inclusion of these services in directories. Commenters did not oppose including listings for these services in directories on a voluntary basis with customer consent. Addition of any of these numbers to listings is left to negotiation between service providers and the directory provider.

Privacy

[5, 6] The Commission's Privacy Principles n4 apply to any telephone services offered by companies regulated by the Commission. They limit use of subscriber information generated by a subscriber's use of a telecommunications service. The principles apply to the use of directory database information by regulated companies.

As more carriers enter the market, there will likely be more opportunities for abuse that could compromise customer privacy. Customers' awareness of their privacy rights is a cornerstone to ensuring that these rights are not violated.

Customers should receive periodic notice of their privacy protections from their carrier as well as information about where to go with complaints or inquiries.

Classification of Directory Listing and Directory Assistance

Another issue to be considered is whether information in directory databases is Customer Proprietary Network Information (CPNI) or subscriber list information. Federal law restricts access to information and data classified as CPNI. Section 222(f)(1) of the Act defines CPNI as:

"(A) information that relates to the quantity, technical configuration, type, destination, and amount of use of telecommunications service subscribed to by any customers of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information."

Subscriber list information is the name, number, address or primary advertising classification that the carrier or an affiliate has published, caused to be published or accepted for publication in any directory format (Section 222 (f)(3) of the Act). It must be provided to any person on request for the purpose of publishing directories in any format.

RTC, ATT, INFONXX, NYT, and Citizens agree that information in directory listings and DA databases is not CPNI but rather is subscriber list information.
Sprint disagrees and states that CPNI includes: identification of the entity providing service, the type of service, name, address, billing address, phone number, type of order, due dates and information concerning directories, such as delivery address and number of books requested. Sprint fails to distinguish the items on its list that are not in directory listings and DA databases. Nor does it recognize the exclusion of subscriber list information from the CPNI definition.

MLM/White emphasizes that even if directory listings and DA information are CPNI, it is entitled to receive the information for directory publishing purposes. NYSTA is unsure about the applicability of CPNI law protections to directory listings and DA information.

Information in directory listings and DA databases at the present time is properly classified as subscriber list information and is, therefore, exempt from the definition of CPNI and CPNI disclosure limitations. Directory database information, then, may be disclosed consistent with this order.

Directory Errors

[7, 8] Errors in directories and databases is another issue of concern. Traditionally, a telephone company is not liable for directory errors but will put a message on the line providing a corrected number and revise the next published directory. NYT asserts that its tariffs and Commission rules are the appropriate standard for end-user rights and remedies regarding directory errors. NYSTA, Citizens, RTC, and Sprint agree that contract and tariff language should address the limits of liability and customer remedies.

With customer choice available, those entities that fail to provide accurate information or make quick reparations for errors will lose customers. When customers have errors to report, they should be able to do so easily. Lines of responsibility should be clearly delineated so individuals know where to report errors.

While errors are inevitable given the volume of data and numbers of

transactions that take place, the negative impact of errors on consumers will be lessened if carriers have mechanisms that correct errors quickly. Procedures for ensuring accuracy and liability for errors should be addressed in tariff and contract language.

The Commission orders:

1. Within 30 days of the date of this order, each local exchange provider shall file tariff amendments consistent with the terms and conditions of this order. The tariff amendments shall not take effect on a permanent basis until approved by the Commission, but may be put into effect on a temporary basis on one day's notice, subject to refund if found not to be in compliance with this order. n5

2. The requirements of newspaper publication pursuant to Section 92(2) of the Public Service Law are waived for the amendments directed in ordering clause 1 above.

3. Each local exchange provider is directed to provide access to its directory database to any entity that requests it for the purpose of publishing a directory or providing directory assistance service.

4. Each local exchange provider is directed to make directory data available in hard copy and electronic format.

5. Each local exchange provider is directed to provide complete and timely directory data equivalent to that which it provides to its own publisher and DA provider.

6. Each local exchange provider is directed to provide access to its database at a price that is cost based and nondiscriminatory. Pricing issues are referred to Phase 3 of the Network Elements Proceeding in Cases 94-C-0095, 95-C-0657, 91-C-1174 and 96-C-0036.

7. These proceedings are continued. APPENDIX A

Initial comments were submitted by: AT&T Communications of New York, Inc. and Cellular Telephone Company d/b/a AT&T Wireless Services (ATT); Citizens Telecommunications Company of New York, Inc. (Citizens); INFONXX, Inc. (INFONXX); MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. (MCI); Multi-Local Media Corporation and White Directory Publishers, Inc. (MLM/White); New York Telephone Company (NYT); The New York State Telephone Association, Inc. (NYSTA); Rochester Telephone Corp. (RTC); and Sprint Communications Company L.P. (Sprint).

Reply comments were submitted by: AT&T Communications of New York, Inc. and Cellular Telephone Company d/b/a AT&T Wireless Services (ATT); INFONXX, Inc. (INFONXX); MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. (MCI); Multi-Local Media Corporation and White Directory Publishers, Inc. (MLM/White); the New York Telephone Company (NYT); and Sprint Communications Company L.P. (Sprint). FOOTNOTES

n1 John F. O'Mara served as Chairman of the Commission until April 14, 1998.

n2 47 CFR section 51.319(g).

n3 Summary of Listing Policies at Major Telcos, 1994 vs. 1991, SIMBA Information Inc., Wilton, CT, provided by NYT.

n4 Case 90-C-0075, Statement of Policy on Privacy in Telecommunications (Issued and Effective: March 22, 1991) and Modification and Clarification of Policy on Privacy in Telecommunications (Issued and Effective: September 20, 1991).

n5 The procedures specified in section 251(f) of the Act apply to any bona fide requests for database listings presented to small local exchange carriers. EDITOR'S APPENDIX PUR Citations in Text [N.Y.] Re Privacy in *Telecommunications, 125 PUR4th 481,* Case 90-C-0075, Sept. 20, 1991.

Part A

AGREEMENT

This Agreement ("Agreement") is effective as of the Effective Date, by and between MCImetro Access Transmission Services, Inc. ("MCIm"), on behalf of itself and its Affiliates, a Delaware corporation with offices at 8521 Leesburg Pike, Vienna, Virginia 22182, and New York Telephone Company d/b/a NYNEX ("NYNEX" or "NYT"), a New York corporation with offices at 1095 Avenue of the Americas, New York, New York 10036.

WHEREAS, the Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will interconnect their networks and provide other services as required by the Act (as defined below) and additional services as set forth herein; and

WHEREAS, the Parties wish to interconnect their local exchange networks in a technically and economically efficient manner for the transmission and termination of calls, so that subscribers of each can seamlessly receive calls that originate on the other's network and place calls that terminate on the other Party's network, and for MCIm's use in the provision of exchange access ("Local Interconnection"); and

WHEREAS, MCIm wishes to purchase Telecommunications Services for resale to others ("Local Resale" or "Services for Resale"), and NYNEX is willing to provide such service; and

WHEREAS, MCIm wishes to purchase on an unbundled basis network elements, ancillary services and functions and additional features ("Network Elements"), separately or in any combination, and to use such services for itself or for the provision of its Telecommunications Services to others, and NYNEX is willing to provide such services; and

WHEREAS, the Parties intend the rates, terms and conditions of this Agreement, and their performance of obligations thereunder, to comply with the Act, as amended by the Telecommunications Act of 1996, the Rules and Regulations of the Federal

AGREEMENT

between

New York Telephone Company
d/b/a NYNEX

and

AT&T Communications of New York, Inc.

AGREEMENT

between

PACIFIC BELL

and

AT&T COMMUNICATIONS OF CALIFORNIA, INC.

Effective Date: December 19, 1996

9. Directory Assistance Services

9.1. General Description and Specifications of the Unbundled Element

9.1.1. PACIFIC's unbundled Directory Assistance Service provides unbundled Directory Assistance ("DA") services to AT&T by utilizing PACIFIC's DA database. This service includes PACIFIC's listed customers and listings supplied to PACIFIC for DA use by other carriers. This DA service shall be provided at parity with PACIFIC DA service and will utilize the same Directory Listing source of information as PACIFIC uses for its own DA service. PACIFIC's unbundled DA has the following service attributes:

9.1.1.1 Database and retrieval system for PACIFIC's DA Operator use;

9.1.1.2 Retrieval of listed telephone number and address information for residence, business, and government listings, requested by locality and name, or a report that the number is not available;

9.1.1.3 Up to three search requests per call;

9.1.1.4. Area code information for the United States and Canada;

9.1.1.5. Exchange locality information for California;

9.1.1.6. Use of Automated Response Unit for number quotation;

9.1.1.7 Express Call Completion at parity with what PACIFIC provides for itself or its affiliates.

9.1.1.8. PACIFIC's DA is available on a statewide basis (throughout California) or by individual NPA.

9.1.1.9. PACIFIC's DA provides telephone numbers and address information within the State of California only.

9.1.2. Nondiscriminatory Access to Directory Listings PACIFIC will provide AT&T with nondiscriminatory access to PACIFIC's directory listings for DA applications. AT&T shall pay PACIFIC for the cost of the transfer media (magnetic tape), plus PACIFIC's reasonable costs for preparation and shipping of the magnetic tape. PACIFIC will not permit AT&T to have access to PACIFIC's unlisted customer names or unlisted customer telephone numbers.