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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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February 25, 1999

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte Filing, CC Docket No. 96-115

Dear Ms. Salas:

Pursuant to the request of Linda Kinney, Legal Advisor to Commissioner Ness, the following information was provided on behalf of the Association of Directory Publishers on Tuesday, February 24, 1999, regarding subscriber list information ("SLI") required by independent directory publishers ("IDPs") from local exchange carriers ("LECs").

SLI differs substantially from the listings contained in databases compiled for direct marketing purposes. A database compiled for direct marketing could not be used to publish a competitive directory because direct marketers draw listings from published white and yellow pages.¹ In order to compete effectively with LEC-affiliated directory publishers, IDPs require access to the LEC's database, which is the most accurate and current source of listings available and a "prototypical example[]" of "sole source" data.² SLI also differs from listings contained in direct marketing databases because direct marketing databases are usually enhanced using other sources, such as first-name and surname tables to ascertain gender and ethnicity.³

BellSouth's tariffed price in Florida, Louisiana, Mississippi, and Kentucky is four cents per listing for

¹ See Bob Stone, Successful Direct Marketing Methods 190 (6th ed. 1997).

² U.S. Copyright Office, Report on Legal Protection for Databases, at 102 (August 1997), attached as Exhibit A. to Ex Parte Filing of ADP (filed Feb. 5, 1999).

³ See Bob Stone, Successful Direct Marketing Methods 190 (6th ed. 1997).

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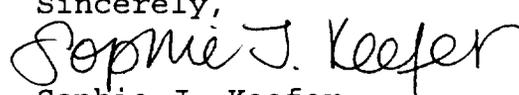
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initial listings. However, BellSouth's "New Connect Report" (\$2.00 per listing) and "Daily Update" (\$1.50 per listing) services are priced at such high levels that few, if any, publishers are able to afford to subscribe to them.⁴ The New York Public Service Commission recently ordered Bell Atlantic to file directory listings database tariffs in which all rates are set at incremental cost. Bell Atlantic's tariff establishes a \$0.0305 rate per initial listing.⁵ However, Bell Atlantic's tariff does not establish a price for updates. There is no reason to assume that the cost to provide a "base file" of SLI differs appreciably from the cost to provide an update file.

IDPs require nondiscriminatory and reasonable access to updates as well as to initial listings. Based on available data, BellSouth's four cent price represents a 1,300 percent profit.⁶ Hence, adoption of a four cent benchmark price for updates as well as initial listings, as proposed by ADP and SBA, Office of Advocacy on September 17, 1998, would permit LECs to recover their cost plus a substantial profit.

Pursuant to the Commission's rules, one copy of this letter is being filed. Please call the undersigned at (202) 429-4730 if you have any questions regarding this filing.

Sincerely,

Sophie J. Keefer

CC: Linda Kinney, Esq.

⁴ See Ex Parte Filing of ADP (filed Dec. 11, 1998).

⁵ See Ex Parte Filing of ADP (filed Feb. 5, 1999).

⁶ See Ex Parte Filing of ADP (filed Feb. 24, 1997).