

ORIGINAL

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MAY 3 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 3, 1999

EX PARTE OR LATE FILED

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 96-115 (Subscriber List Information); Notice of Written
Ex Parte Presentation and Request for Confidential Treatment

Dear Ms. Salas:

Enclosed are two identical sets of documents constituting a written *ex parte* presentation in the above referenced proceeding. Each set of documents consists of one copy of the presentation containing confidential information ("Confidential Copy") for which confidential treatment is requested for the reasons set forth below, and another copy of the presentation from which confidential information has been redacted ("Public Copy").

Pursuant to Section 0.459 of the Commission's Rules, BellSouth requests confidential treatment of the Confidential Copy submitted herewith and further requests that such Confidential Copy not be made routinely available for public inspection. In support of this request, BellSouth represents the following:

The specific information for which confidential treatment is sought consists of data indicating BellSouth's current cost of providing subscriber list information (SLI) updates to nonaffiliated directory publishers. This information is being submitted in CC Docket No. 96-115 and is provided to show that the \$0.06 per updated listing price advocated by opposing parties neither is reasonable nor would allow BellSouth to recover its costs of providing such updates. The submitted cost data is confidential business information to BellSouth. In this submission, the provided information is disaggregated to such a level (cost per updated listing) that disclosure of such confidential information

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could substantially harm the competitive position of BellSouth by assisting competitors in analyzing market opportunities and in preparing market strategies to use in direct competition with BellSouth. This information has not been publicly disclosed by BellSouth and is of a type that is not typically released outside the company or made public by BellSouth.

Please include only the Public Copy of the enclosed presentation in the public record of this proceeding and retain the Confidential Copy only under confidential treatment.

Thank you for your assistance.

Sincerely,



for Ben G. Almond

cc: Bill Kehoe
Daniel Shiman

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SUPPLEMENTAL EX PARTE SUBMISSION--
SUBSCRIBER LIST INFORMATION (SLI) EX PARTE
GN DOCKET NO. 96-115
May 3, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

On April 26, BellSouth participated in an ex parte meeting with FCC staff to discuss issues in the above-referenced docket. This Supplemental Ex Parte Submission is intended to provide additional information requested by the FCC staff at that meeting, and to further explain certain issues that were discussed at the April 26 session. Specifically, BellSouth is submitting information that shows the vast disparity among incumbent Local Exchange Carriers (LECs) in the content, configuration, processes and prices for certain Subscriber List Information (SLI) offerings made available by such LECs. This information demonstrates that until the FCC clearly defines what a "base SLI offering" is, and what an "update to a base SLI offering" is, no rational and objective decisions can be made with respect to any appropriate presumptive pricing ranges that the FCC might wish to propose. Second, BellSouth explains and clarifies some misunderstandings relating to certain BellSouth base and "non-base" update offerings and optional reports made available to directory publishers. Finally, BellSouth shows that its costs for providing an update service similar to one that it believes the FCC is considering far exceed the price for such update service that has been suggested by the Association of Directory Publishers (ADP). BellSouth has shown the FCC that ADP's Supplemental Ex Parte Submission, filed on March 30, 1999, has erroneous and misleading cost data in it that has led ADP to propose an unreasonable rate for a base SLI update service.

I. DIFFERENCES IN CONTENT, COST AND PRICE CURRENTLY EXIST IN THE "SLI OFFERINGS" OF THE INCUMBENT LECs (RBOCS AND GTE, AND THE SMALLER INDEPENDENT COMPANIES). THUS, THE FCC MUST TAKE ALL SUCH DIFFERENCES INTO ACCOUNT PRIOR TO TAKING ANY ACTION ON SETTING SLI PRICE RANGES

BellSouth's Directory Publishers Database Service (DPDS) offerings provide directory publishers several base file and base file update options for receipt of (SLI). Such base SLI offerings allow the directory publishers to obtain the SLI that is necessary for them to publish their directories. Nothing else is required under the law. Other incumbent LECs also provide base SLI offerings; however it appears that there are quite a few differences in the content and prices that are charged for such offerings. (SEE: Attachment A, Directory Publishers Database Services Benchmark Matrix—LEC Service Descriptions, and Attachment B, Directory Publishers Database Services Benchmark Matrix—LEC Services and Prices). Due to the existence of many possible provisioning factors that most likely influence the cost, and therefore indirectly the prices, for such offerings, the FCC should be very careful not to prejudge the reasonableness of any particular prices currently being charged for these various base SLI and base SLI update options. Other optional information or reports that may be available from BellSouth or other incumbent LECs are not necessarily designed for the publication of directories. For instance, BellSouth makes available various reports to directory publishers that have absolutely no use in directory publication, but rather are offered to directory publishers for

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directory delivery and yellow pages sales solicitation purposes. An example of one of these reports is the Weekly Business Activity Report (WBAR). (See: Attachment C—"BELLSOUTH DIRECTORY PUBLISHERS DATABASE SERVICE-Weekly Business Activity Report (WBAR)") BellSouth's tariffs and license agreements clearly state that this report is not intended, nor is it appropriate as an update service. Rather, it is offered for reasons unrelated to directory publishing. Thus, such an optional report falls outside of Section 222(e), and should not be subject to FCC regulation at all. Only the base SLI and updates to such base SLI that is necessary for the publication of directories is within the scope of Section 222(e).

II. SOME OF THE COST INFORMATION PROVIDED BY ADP IN ITS MARCH 30,1999 SUPPLEMENTAL EX PARTE SUBMISSION IS INACCURATE AND MISLEADING, AND THEREFORE ADP'S PROPOSED PRICE FOR BASE SLI UPDATES IS UNREASONABLE

ADP, in its March 30, 1999 written ex parte filing, has submitted erroneous, stale and outdated cost information to the FCC regarding BellSouth's base SLI daily update offering and has suggested that the incorrect data be used as the basis for determining BellSouth's actual costs of providing base SLI updates. The data submitted by ADP is over five years old, and was originally submitted in a 1993 Florida case relating to BellSouth's provision of some of its base SLI and optional services. In attempting to make a comparison between the relative costs of BellSouth's current base SLI and daily update offerings, ADP mistakenly used the costs for BellSouth's WBAR optional, non-SLI service instead of the costs for BellSouth's base SLI daily update service offering. Thus, the conclusions reached by ADP regarding the relative cost differences in the base SLI and daily updates to such service were incorrect. This is a fundamental and material error in ADP's filing. Based on the above, while BellSouth has not yet provided any cost information to the Commission on these issues, the Company cannot allow the record to be distorted by incorrect cost data submitted by ADP. Responsible and lawful regulation dictate that the FCC not knowingly propose to set prices for any services below their actual costs. BellSouth has pointed out ADP's error to the FCC staff, and, further shows in this filing that in fact BellSouth's actual costs for its base SLI daily update service far exceeds ADP's suggested six cent (\$.06) update price. (See: Attachment D—Unit Cost for Base SLI Daily Update Service). Thus, at least as applied to BellSouth, ADP's suggested price for base SLI update services is unquestionably unreasonable.

III. OTHER DATA, IN ADDITION TO BELLSOUTH'S, MUST ALSO BE CONSIDERED IN THIS DOCKET PRIOR TO THE ISSUANCE OF ANY ORDER ON SUGGESTED PRESUMPTIVELY REASONABLE PRICE RANGES

BellSouth also recently has been made aware that the smaller independent LECs have costs that in many cases substantially exceed BellSouth's costs for providing these same types of services. BellSouth is not aware of any attempt by the FCC to obtain the small independent LECs' cost or other information pertaining to these services. However, even if it has done so, BellSouth has not seen any small independent company cost information in the record. Thus, at least for now, the current absence of such relevant data at this point in the proceeding would appear to be a major deficiency in the record even if the Commission seeks to set some "range of presumptive reasonableness" for base SLI and updates.

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The Commission simply has not received adequate record support on which to base any "uniform" prices for base SLI and updates. Thus, at a minimum, the FCC should defer to the respective states that have comprehensively, through tariff proceedings or otherwise, reviewed the base SLI and base SLI update prices. The states are equally able to enforce the standards set forth in Section 222(e). The mere fact that ADP does not like the results of prior state proceedings on these issues does not mean that the analysis and comprehensiveness of these state proceedings were in any way deficient. To the contrary, in BellSouth's experience, these state proceedings have been conducted with full and complete administrative process, and have resulted in fair, just and reasonable decisions. ADP's attempt to have the FCC preempt the states on these issues, and to ignore these regulatory agencies' valid decisions would not be appropriate on this record and would offend the concepts of federal/state cooperation and comity that has existed for a long time.

In conclusion, the record in this proceeding currently establishes that there are vast differences in the various base SLI and update offerings provided by the LECs. There also appear to be substantial cost differences in these service offerings. BellSouth and others have already established that there is clearly a necessary value of service component to these service offerings, and that the FCC should maintain that value component in this proceeding. This fact, together with the apparent differences in costs, leads to the conclusion that the FCC must reconcile these many differences prior to entering any order in this phase of the proceeding. Finally, BellSouth has pointed out material errors in ADP's most recent supplemental ex parte submission, and has provided the most updated and accurate cost information available for the FCC's consideration. BellSouth respectfully submits that this new and critically important information must be taken into consideration by the Commission in order to come to a rationale decision in this case.

(Attachments)

**ATTACHMENT A
 DIRECTORY PUBLISHERS DATABASE SERVICES
 BENCHMARK MATRIX
 LEC SERVICE DESCRIPTIONS**

LEC	BASE FILE	UPDATE	OPTIONAL
BELLSOUTH	<p>The file contains listed names, addresses, and primary business classification (where available) and telephone numbers of BellSouth subscribers located in a Central Office NPX-NXX codes or and A-Z Section requested by the customer. Provided on magnetic media or printed paper at the customer's request.</p>	<p>Daily Update Option: Provides daily service order activity affecting the designated database of listings maintained by the customer sequenced in any Sort Extract option format These reports will include changes in the main listed names, addresses and telephone numbers resulting from N, D, R, X, C, and T orders. Provides a useable format that is a ready for processing.</p> <p>Weekly- NA Monthly- NA</p>	<p>Weekly Business Activity Report: Contains weekly reporting changes affecting the business listings of BellSouth subscribers served via a Central Office NPA-NXX at the customers' request.</p> <p>Sort Extract Option: Provides a one time extract of listings sorted in any of these sequences: NPA-NXX code, zip code, locality, A-Z code for foreign exchanges, 800 numbers, and remote call forwarding.</p> <p>New Connect Activity Report: Contains listings from service orders, which contain an "N" indicator, which denotes a new telephone number for a subscriber.</p>

**ATTACHMENT A
 DIRECTORY PUBLISHERS DATABASE SERVICES
 BENCHMARK MATRIX
 LEC SERVICE DESCRIPTIONS**

<p>AMERITECH</p>	<p>This file includes Business, Residence and Government listings. Listings can be extracted by name (special request), NPA-NXX, community name (exchange abbreviation), and zip code. Normally extracts are pulled by NPA-NXX and community names.</p>	<p>Daily Weekly Monthly Update Option: The update is a sub-set of the base file ordered. The update file includes completed service order activity.</p>	
<p>GTE</p>	<p>Contains listed names, addresses, and primary business classification (where available) and telephone numbers GTE subscribers located in an NPX-NXX codes or and exchange code extract requested by the customer. Provided on magnetic media or Proofs (printed paper), diskettes.</p>	<p>Daily Update Option: Following initial listing purchase, listing updates to the base load are available, on a daily basis, via internet transmission.</p> <p>Weekly - NA Monthly- NA</p>	

ATTACHMENT A
DIRECTORY PUBLISHERS DATABASE SERVICES
BENCHMARK MATRIX
LEC SERVICE DESCRIPTIONS

US WEST	Contains listed names, addresses, and primary business classification (where available) and telephone numbers of	Daily Update Option: Provides updates on a daily basis – contains raw data based on the individual customer's criteria. Weekly – NA Monthly- NA	

**ATTACHMENT B
 DIRECTORY PUBLISHERS DATABASE SERVICES
 BENCHMARK MATRIX
 LEC SERVICES AND PRICES**

	BASE FILE	UPDATE	OPTIONAL
BellSouth	<p>\$0.04 Per Listing/Single Publication</p> <p>\$0.12 Per Listing/ Multiple Publications</p>	<p>\$1.50 Per Listing/Daily</p> <p>Weekly/NA</p> <p>Monthly/NA</p>	<p>Weekly Business Activity Report \$0.006 Per Central Office NPA-NXX Listing(for all listings in the Central Office Requested)</p> <p>Daily-NA</p> <p>Monthly-NA</p> <p>Additional Sort Extract Option</p> <p>\$0.10 Per Listing</p> <p>New Connect Activity</p> <p>\$2.00 Per Listing -Weekly</p> <p>Daily-NA</p> <p>Monthly-NA</p>
Ameritech	<p>\$0.13 Per Listing/Single Publication</p> <p>\$0.25 Per Listing/Multiple Publications</p>	<p>\$1.75 Per Listing /Daily</p> <p>\$1.25 Per Listing/ Weekly</p> <p>\$0.50 Per Listing/ Monthly</p>	<p>New Connect Activity</p> <p>\$1.25 Per Listing/Daily</p> <p>\$0.75 Per Listing/Weekly</p> <p>\$0.15 Per Listing /Monthly</p>
GTE	<p>\$0.35 Per Listing Bus/Res. Single and/or Multiple Publications</p> <p>\$0.45 Per Listing Bus. Only - Single and/or Multiple Publications</p> <p>\$0.40 per Listing Res. Only Single and/or Multiple Publications</p> <p>California Only:*</p> <p>\$0.117 Per Listing Bus/Res.</p> <p>\$0.159 Per Listing Bus. Only</p> <p>\$0.139 Per Listing Res. Only</p> <p>*PSC Regulated Pricing</p>	<p>\$0.50 Per Listing Bus/Res.</p> <p>\$0.60 Per Listing Bus. Only</p> <p>\$0.55 Per Listing Res. Only</p> <p>California Only:*</p> <p>\$0.198 Per Listing Bus/Res.</p> <p>\$0.249 Per Listing Bus. Only</p> <p>\$0.229 Per Listing Res. Only</p> <p>Above Updates provided –</p> <p>Daily Only</p> <p>Weekly-NA</p> <p>Monthly NA</p> <p>*PSC Regulated Pricing</p>	<p>California Only:*</p> <p>\$0.198 Non-Pub/Non List Address Updates for Delivery Only</p> <p>New Connect Activity-NA</p> <p>Weekly Business Activity Report-NA</p> <p>*PSC Regulated Pricing</p>
U S West	<p>\$0.21 Per Listing/Initial Extract-Single and/or Multiple Publications</p> <p>\$0.13 Per Listing/Single and/or Multiple Publications/Volume discounted</p>	<p>\$0.57 Per Listing/ Daily</p> <p>Weekly –NA</p> <p>Monthly-NA</p>	<p>Business Activity Report</p> <p>\$0.30 Per Business Listing/Daily</p> <p>New Connect Activity-NA</p>

ATTACHMENT C

BELLSOUTH
DIRECTORY PUBLISHERS DATABASE SERVICE
Weekly Business Activity Report (WBAR)

The purpose of the WBAR is to provide directory publishers with a means to identify potential advertisers for inclusion in the next publication of the directory they wish to publish for a given area. The WBAR is not suitable as an update service since it only contains information that affect the main business listing. However the publisher can use the information in the compilation, publication, and distribution of its telephone directory at its own risk.

With WBAR Directory publishers are provided with service order listing changes for business main listings only. On a customer by customer basis, the service order activity from N, T, C, D, R, and X order types for each NPA-NXX requested are collected daily, written to and output file, and furnished to the customer on a weekly basis via a paper report.

Only service order activity with a business class of service USOC will be selected. Non published and non listed information are not included on the report. Change orders that do not contain an out telephone number (OTN), out listed name (OLN), or out listed address (OLA) will not be included on the report meaning the "C" order must have one of these changes to be selected for the WBAR.

The publisher can only order WBAR by NPA-NXX. The customer is billed on a per listing basis for all listings (residence, business, government, etc.) contained in the NPA-NXX file requested, not on a per update basis contained in the report he or she receives weekly. Each month the Operator Services Administrator extracts a count of the total number of listings contained in the NPA-NXXs the publisher has requested. The customer is billed a \$.006 per listing for all listings contained in the NPA-NXX requested.

The Daily Update Service is different from the WBAR in that the customer is billed only for the updates that are contained on the daily update report.

N= New service	OTN= Out telephone number*
T= Transfer of service	OLN= Out listed name*
C= Change of service/Features to existing services	OLA= Out listed address*
D= Disconnect service	
R= Listing or Service order change	
X= Area transfers	

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ATTACHMENT D

**UNIT COST FOR BASE SLI DAILY UPDATE SERVICE
(Proprietary and Confidential Business Information)**

Unit Cost for base SLI daily update service: \$[_____].