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

In the Matter of	)	
	)	CC Docket No. 97-172
BellSouth Petition for Forbearance	)	DA 99-2556
for Nonlocal Directory Assistance Service	)	

COMMENTS OF MCI WORLDCOM, INC.

MCI WORLDCOM, Inc. files the following comments in response to BellSouth's Petition for Forbearance for Nonlocal Directory Assistance Service (the Petition) filed October 8, 1999.

BellSouth Petition

BellSouth requests that the Federal Communications Commission (Commission) grant it forbearance[1] from the requirements in Section 272 of the Act[2] so that it may provide nonlocal directory service on an integrated basis with its provision of local directory assistance services. BellSouth wants similar relief to that granted to US West in the Commission's *NDA Order*[3] in which the Commission resolved US WEST's Petition for Declaratory Ruling concerning the

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[1] Pursuant to the Commission's forbearance requirements found in Section 10 of the Communications Act. 47 U.S.C. § 160.

[2] 47 U.S.C. § 272.

[3] *Petition of US WEST Communications, Inc. for Declaratory Ruling Regarding the Provision of National Directory Assistance,* Memorandum Opinion and Order, CC Docket No. 97-172 (rel. September 27, 1999) (*NDA Order*).

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provision of nonlocal directory assistance. BellSouth claims that its nonlocal directory assistance arrangements are similar in "all material respects" to that of US West.[4] BellSouth has also stated that it will agree to the same conditions as those imposed on US West in the *NDA Order*. This includes making available to unaffiliated competing providers of national directory assistance services, the same in-region listing information BellSouth uses to provide its own nonlocal directory assistance services on the same rates, terms and conditions it imputes to itself, as well as providing listing information BellSouth obtains from independents and CLECs within its own region.[5]

Incidental InterLATA Services Pursuant to Section 271(g)(4)

The Commission's *NDA Order* expressly provides that a Bell Operating Company (BOC) is not in violation of § 271 only if its provision of nonlocal directory assistance service is structured so that it is an incidental interLATA service pursuant to § 271(g)(4). The Commission concluded that "§ 271(g)(4) permits a BOC to offer incidental interLATA services [such as NDA] only when it uses its own facilities."[6] BellSouth states in its Petition that it will provide directory listing information in a manner similar to US West's present regionwide nonlocal directory assistance.[7] Unlike the US West arrangement, however, BellSouth states that it will "ensure" that all out-of-region and in-region listing information to provide nonlocal directory assistance is

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[4] Petition at 5.

[5] Petition at 1-2 and 8.

[6] *NDA Order* at ¶ 23.

[7] Petition at 4.

stored in and retrieved from storage facilities owned by BellSouth.[8] Given this fact, BellSouth states that its nonlocal directory assistance falls properly within the meaning of incidental interLATA service pursuant to § 271(g)(4).

These statements amount to promises that BellSouth will comply with the law in the future. The promises are too vague and lack the specificity to enable the Commission to make a complete determination as to whether BellSouth has actually structured its nonlocal directory assistance service in a manner consistent with the *NDA Order* and that it can be classified as an incidental interLATA service pursuant to § 271(g)(4).

The Petition should not be granted until BellSouth certifies to the Commission and the Commission has appropriate proof that the listing information is already stored in a facility owned by BellSouth. If BellSouth intends to purchase or has already purchased the information storage facility to allow it to provide nonlocal directory assistance, then it should provide this information to the Commission for its consideration. For example, BellSouth should provide the date on which the purchase is or was completed. Moreover, BellSouth should prove that it actually owns the facility in order to meet the requirements of § 271(g)(4). BellSouth should also be required to disclose the terms of any purchase so that the Commission can ensure that the purchase does not include preferential treatment by BellSouth for the storage facility vendor when BellSouth provides access to its directory listings. Without this complete analysis, the Commission's determinations in the *NDA Order* regarding how a BOC may provide nonlocal directory assistance as an incidental interLATA service under § 271(g)(4) is rendered a meaningless requirement that can be satisfied without appropriate certification and vague assurances of

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[8] Petition at 6.

compliance.

Potential Violations Of § 271 and § 272

To the extent that BellSouth was providing nonlocal directory assistance prior to the time it owned (or will own) the information storage facilities, the Commission should sanction BellSouth for its violation of § 271. BellSouth's petition suggests that it did not use its own information storage facilities to provide its nonlocal directory assistance service. We, therefore, believe, that unless BellSouth can prove otherwise, this Commission should sanction BellSouth for its violation of § 271 of the Act and the *NDA Order* from the date it initiated service until the date on which it becomes or became compliant with the law.

Additionally, BellSouth should also face sanctions for violating § 272 for its provision of nonlocal directory assistance without a separate affiliate. BellSouth, fully aware that its provision of nonlocal directory assistance services without the use of a separate affiliate may have been deemed a violation of law, chose to ignore this possibility by doing nothing. BellSouth had an opportunity to file a request for forbearance at the same time as US WEST filed its Petition for a Declaratory Ruling regarding nonlocal directory assistance over two years ago (July 17, 1997) and chose not to do so. Moreover, BellSouth, after clearly discovering that it was in violation of the §272 affiliate requirements, should have immediately filed its request for forbearance after the Commission's *NDA Order* was adopted. Again, it chose not to. Instead, BellSouth did not file the Petition seeking forbearance of the law until October 8, 1999. As stated above, any sanctions for BellSouth's violation of § 272 and the *NDA Order* should run from the date it initiated service until it becomes or can prove that it became compliant with the law.

Conclusion

The Commission should not grant this petition until BellSouth has provided sufficient information to allow the Commission to determine that the structure of BellSouth's nonlocal directory assistance service as an incidental interLATA service is compliant with the law. Additionally, the Commission should consider sanctions against BellSouth for providing nonlocal directory assistance services without owning the information storage facilities in violation of § 271 and for not providing nonlocal directory assistance through a separate affiliate and thus being in violation of § 272 of the Act. BellSouth should be required to stop providing nonlocal directory assistance immediately until it proves that its service is compliant with the law.

Respectfully submitted,

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Dated: November 29, 1999

CERTIFICATE OF SERVICE

I, Lonzena Rogers, do hereby certify, that on this twenty-ninth day of November, 1999, I caused by first class United States Postage, a true and correct copy of MCI WorldCom, Inc.'s Comments concerning BellSouth's Petition for Forbearance to be served on the following:

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