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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Implementation of the Telecommunications Act of 1996	)	CC Docket No. 96-115
	)	
Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Provision of Directory Listing Information Under the Communications Act of 1934, As Amended	)	CC Docket No. 99-273

JOINT COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES AND THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Association for Local Telecommunications Services ("ALTS")[1] and the Competitive Telecommunications Association ("CompTel")[2] hereby submit their Joint

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1 ALTS is the trade association that represents the builders of high-speed local communications -- CLECs that are "facilities-based." ALTS was founded to harness the shared energy and vitality of the new competitors and to help ensure regulations for robust competition, spawned by the 1996 Act, are implemented and enforced.

2 Based in Washington, D.C., CompTel is the leading national association representing more than 350 U.S. and international competitive communications firms and their suppliers who offer a variety of local, long distance, Internet, and wireless services. CompTel's members include large national firms, regional carriers, and small local competitive companies.

Comments in support of the Petition for Reconsideration of the Association of Directory Publishers ("ADP") in the above captioned proceeding.[3] Specifically, ALTS and CompTel support ADP's assertion that incumbent local exchange carriers ("ILECs") should be required (unless a CLEC affirmatively prohibits it) to provide independent directory publishers with subscriber list information ("SLI") of competitive local exchange carriers ("CLECs") obtained by the ILECs pursuant to interconnection agreements with the CLECs if the ILECs provide these data to their own directory publishing affiliates.

I. Background.

In the Third Report and Order, the Commission determined that the obligation to provide a telephone subscriber's SLI to a requesting directory publisher extends only to the carrier that provides that subscriber with telephone exchange service.[4] As a result, some ILECs have formed the view that, in the absence of the affirmative consent of a CLEC, they may simply refuse to provide CLECs' listings to independent directory publishers while providing these data to their own directory publishing affiliates. ALTS

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[3] In re Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115, Third Report and Order, FCC 99-227 (rel. Sept. 9, 1999)("Third Report and Order"). The Third Report and Order was published in the Federal Register on October 5, 1999. See 64 Fed. Reg. 53944 (Oct. 5, 1999). Petitions for Reconsideration were filed on November 5, 1999. On December 3, 1999, the Commission released a Public Notice stating that Oppositions to these Petitions would be due on or before January 11, 2000. See Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, Report No. 2374 (rel. Dec. 3, 1999).

[4] Third Report and Order, at ¶ 55. Cf. Joint *Ex Parte* Submission of ALTS and ADP in CC Docket 96-115 (filed Aug. 7, 1998)(The Commission should require ILECs to provide independent directory publishers with SLI obtained from CLECs pursuant to the plain language of Section 222(e) as well as its nondiscrimination component.).

and CompTel agree with ADP that this is an unreasonable and discriminatory practice under Sections 201(b) and 202(a) of the Act, both from the perspective of CLECs and from the perspective of independent directory publishers.[5]

II. Discussion.

Many of ALTS' and CompTel's members are competitive telecommunications providers that compete with the ILECs for local telephone customers. Pursuant to their interconnection agreements with ILECs, these CLECs typically provide their SLI to the ILECs and the ILECs' directory publishing affiliates at no charge.[6] A typical agreement generally provides that the ILEC will include the CLEC's subscribers' SLI in the white and yellow pages directories published by its affiliate, as well as in the ILEC's directory assistance database.[7] The ILEC also will usually agree to deliver copies of its directories

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5 ADP Petition, at 6.

6 For example, a BellSouth interconnection agreement states that interconnection is "[s]ubject to the execution of an agreement between BellSouth's affiliate, BellSouth Advertising and Publishing Co. (BAPCO), and [the CLEC]." Interconnection Agreement Negotiated by BellSouth Telecommunications, Inc. and American Communications Service, Inc. Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996, at 33 (July 25, 1996).

7 ILECs have access to "a more complete, accurate, and reliable local database than their competitors because [ILECs'] databases include the telephone numbers of their own local customers in addition to the telephone numbers of independent LECs and competitive LECs operating within their respective regions." In re MCI Telecommunications Corp. v. US WEST Communications, Inc., MCI Telecommunications Corp. v. Illinois Bell Tel. Co. et al., File Nos. E-97-40 & E-97-19, *Mem. Op. and Order*, DA 99-2479, at ¶ 27 (rel. Nov. 8, 1999); see also In re Petition of US WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance, Petition of US WEST Communications, Inc. for Forbearance, CC Docket No. 97-172, *Mem. Op. and Order*, FCC 99-133, at ¶ 35 (rel. Sept. 27, 1999); In re 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, *Mem. Op. and Order*, 13 FCC Rcd. 2627, at ¶ 81 (1998).

to the CLEC's subscribers. These agreements benefit all parties concerned and the public because the CLEC fulfills its obligation to provide directory listings for its customers, its customers appear in the ILEC's telephone directories and receive copies of the directories, and the ILEC possesses complete SLI for the geographic area it serves.

Because existing interconnection agreements typically only provide for a CLEC's SLI to be provided to the ILEC's directory publishing affiliate, some ILECs have determined that they may not provide a CLEC's listings to independent directory publishers unless the CLEC specifically requests it. As a result, a CLEC's subscribers may not appear in the books published by independent directory publishers. The FCC should remedy this unintended consequence of the existing interconnection agreements between ILECs and CLECs by mandating that ILECs must provide CLECs' SLI to independent directory publishers unless the CLEC affirmatively prohibits it. In addition, the FCC should make clear that all new or renewed interconnection agreements do not discriminate in favor of the ILEC's directory publishing affiliate in this manner.

By requiring ILECs to provide CLECs' SLI to independent directory publishers -- along with the ILECs' own SLI -- the Commission would enhance competition in the local exchange market.[8] In the context of the pro-competitive goals of the Telecommunications Act of 1996, competition in the local exchange market will be thwarted unless ILECs are required to provide CLEC listings to independent directory publishers as well as their own

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[8] See *Ex Parte* Submission of Time Warner Telecom in CC Docket No. 96-115 (filed Aug. 20, 1999)(stating that competition in the directory publishing and local exchange markets will be harmed unless the Commission requires ILECs to provide independent directory publishers with CLECs' SLI); see also *Ex Parte* Submission of ALTS in CC Docket No. 96-115 (filed Aug. 23, 1999)(same).

subscribers' listings. Providing SLI directly to independent directory publishers imposes significant burdens on CLECs. In order to meet publishers' requests for listings and listings updates, CLECs must build infrastructure and employ personnel to process these requests. Today, few CLECs are large enough to accomplish this without significant hardship. However, ILECs already possess databases that contain CLEC's SLI and have procedures and staff in place to process requests for SLI. Indeed, many ILECs currently provide (or, by contrast, cause the provision of) CLECs' SLI to independent publishers at little to no extra cost to the ILEC, as evidenced by the uniform rates charged by these ILECs for provision of all listings, including CLEC listings.[9] If CLECs must use valuable resources to duplicate these databases in order to fill requests from publishers for SLI, the development of local competition will suffer.

Requiring ILECs to provide CLECs' listings to independent directory publishers would produce other benefits as well. Some CLECs have expressed concern that by providing SLI to independent publishers, their proprietary customer lists would be revealed to other entities and potentially to their competitors. However, if the ILEC were to provide a CLEC's SLI bundled with and indistinguishably from its own SLI, the information would be better protected. Also, in some parts of the United States, the directories published by independent publishers may be more widely used than the incumbent's directory. In these markets, CLEC customers who do not appear in the

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9 For example, Southwestern Bell Telephone Company provides independent directory publishers with "independent company data" at the same rates as its own data and indistinguishably from its own data. In New York, Bell Atlantic's tariffed SLI service offering includes a cost-based "administrative function" fee of $0.0173 per listing to provide CLECs' SLI to publishers. Again, these data are provided bundled with and indistinguishably from Bell Atlantic's own SLI.

independent's directory will be less inclined to continue subscribing to the CLEC because the customer did not appear in "the phone book." If the ILEC provides the CLECs' SLI to all publishers, however, this problem would be avoided, to the benefit of competition.

III. Conclusion.

Accordingly, ALTS and CompTel respectfully urge the Commission to grant the relief requested by ADP in its Petition for Reconsideration and require ILECs to provide CLECs' SLI obtained by the ILEC pursuant to interconnection agreements with the CLECs unless the CLEC affirmatively prohibits it.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Judy Lowe, do hereby certify that on this 11th day of January, 2000, copies of the foregoing Joint Comments of the Association for Local Telecommunications Services and the Competitive Telecommunications Association were served via hand delivery to the following parties:

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