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February 2, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby
Counter TW-A325
Washington, D.C. 20554

**Re: CC Docket No. 96-115, Telecommunications Carriers' Use of Customer
Proprietary Network and Other Customer Information;
CC Docket No. 96-98, Implementation of the Local Competition
Provisions of the Telecommunications Act of 1996;
CC Docket No. 99-273, Provision of Directory Listing Information**

Ex Parte Communication

Dear Ms. Salas:

On February 1, 2000, Lois Pines and the undersigned, on behalf of INFONXX, Inc. (INFONXX), met with Yog Varma, Charles Keller and Greg Cooke, all of the Common Carrier Bureau, to review INFONXX's filings in the above proceedings and to urge prompt adoption of pro-competitive rules to ensure that independent directory assistance ("DA") providers have access to directory listing information controlled by local exchange carriers ("LECs"). The attached document summarizes INFONXX's presentation regarding several issues raised in the *Notice of Proposed Rulemaking* issued in CC Docket No. 99-273. Also, INFONXX discussed how SBC's suggestion – in its recent Reply Comments to Oppositions to its Petition for Clarification or Reconsideration of the *SLI Order* – that Section 251(b)(3) has no application to the issue of access to SLI clearly misconstrues the section and plainly is an inadequate response.

As our previous filings have demonstrated, both competition and consumers suffer by the denial of SLI access to DA providers. INFONXX's inability to get accurate directory listing information from incumbent LECs at a fair price and on reasonable terms means that customers end up spending more time and money seeking DA information, and customers often get inaccurate information – with millions of wrong numbers given out to Americans every year. Moreover, our customers must bear additional airtime costs and bear some of the inflated rates that INFONXX must pay incumbent carriers for access to accurate DA information.

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Competition in the DA marketplace will only be accomplished when competitive DA providers have complete access at cost-based rates to LEC DA databases, including daily updates providing the same level of information that the LECs themselves have.

In its previous filings and in this presentation, INFONXX explained that the Commission has three legal bases to grant competitive DA providers nondiscriminatory access to directory listing information: (i) call completion, which would qualify a provider under Section 251(c); (ii) Sections 201/202; and (iii) on the basis of agency law, access can be ordered pursuant to Section 251(c). INFONXX and the other commenters in CC Docket No. 99-273 have established that the service it offers constitutes call termination and thus qualifies it as a CLEC entitled to Section 251(c) access. The comments in this proceeding also raise no substantial issues that would cast doubt on the Commission's ability to require access pursuant to Sections 201/202, which the Commission has used on a number of occasions to combat unreasonable and discriminatory practices. Finally, the record amply establishes that competitive DA providers are entitled to nondiscriminatory access as agents of CLECs. Clearly, basic agency law supports the conclusion that independent contractors, such as INFONXX, can be agents entitled to all the rights of their principals. Agency law also supports the conclusion that the acts of an agent should not be limited when the principal's acts are not limited. Consequently, there is no reason to limit a competitive DA provider's use of the directory listing information that it obtains as a CLEC's agent. Nor is there any basis upon which a LEC could charge a CLEC's agent different rates depending on how the agent plans to use the information to which the CLEC principal is entitled.

The need for the Commission to act quickly in this proceeding is all the more pressing because of the Commission's recent *UNE Remand Order*, which concluded that incumbents LECs need not provide unbundled access to OS/DA services. Without unbundled access to OS/DA services, CLECs will have to rely on competitive DA providers so that they can offer consumers full service in true competition with ILECs. However, as Time Warner Telecom and other CLECs have commented in this proceeding, CLECs cannot truly compete with ILECs if the quality of their DA service is impaired because they and their DA providers do not have access to DA data at cost-based rates.

In order to foster the ultimate goal of competition, the Commission should expeditiously adopt a rule in CC Docket No. 99-273 to ensure that competitive DA providers actually have nondiscriminatory access to directory listing information pursuant to Section 251 and the Commission should reject the view of SBC that seeks to unnaturally limit the plain language of Section 251(b).

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Please address any questions to the undersigned.

Sincerely,



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