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SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202)424-7500
FACSIMILE (202) 424-7645

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NEW YORK OFFICE
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NEW YORK, NY 10174

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June 20, 2000

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FEDERAL COMMUNICATIONS COMMISSION
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VIA COURIER

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: Reply Comments of Allegiance Telecom, Inc. in CC Docket No. 94-129

Dear Ms. Salas:

Pursuant to Sections 1.1200 and 1.206(b) of the Commission's rules, 47 C.F.R. §§ 1.1200, 1.1206(b), Allegiance Telecom, Inc. hereby submits these reply comments in the above-referenced proceeding.

Pursuant to the Commission's rules, an original and five (5) copies of the comments are provided. Please date- stamp and return the additional copy of this letter for our records in the self-addressed stamped envelope provided. Thank you for your attention in this matter.

Sincerely,

Patrick J. Donovan
Michael J. Mendelson

Counsel for Allegiance Telecom, Inc.

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

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In the matter of	)	
	)	
Implementation of the Subscriber	)	
Selection Changes Provisions of the	)	CC Docket No. 94-129
Telecommunications Act of 1996	)	
	)	
Policies and Rules Concerning	)	
Unauthorized Changes of Consumers'	)	
Long Distance Carriers	)	

REPLY COMMENTS OF ALLEGIANCE TELECOM, INC.

In response to the Federal Communications Commission's ("Commission") Public Notice, DA 00-1093, released May 17, 2000, Allegiance Telecom, Inc. ("Allegiance"), by its undersigned counsel, hereby submits these reply comments in the above-referenced proceeding.[1] Allegiance and its operating subsidiaries resell long distance service in conjunction with their facilities-based local exchange service offerings and will be negatively impacted should the Commission adopt a requirement that long distance resellers obtain their own Carrier Identification Codes ("CIC codes"). A Commission mandate that long distance resellers obtain their own CIC codes will impose significant additional, and perhaps unnecessary, costs on all segments of the industry – facilities-based interexchange carriers ("IXCs"), resellers and local exchange carriers. To the extent the Commission's goal is to eliminate "soft slamming," Allegiance submits that vigorous enforcement of the Commission's existing slamming and truth

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[1] *In the Matter of Implementation of the Subscriber Selection Changes Provisions of the Telecommunications Act of 1996: Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508, 1593-1601, released, December 23, 1998, (hereinafter, "FNPRM").

in billing rules will provide a far more effective deterrent to unauthorized carrier changes than will a requirement that long distance resellers obtain their own CIC codes.

I. IT WOULD BE PROHIBITIVELY COSTLY TO REQUIRE TELECOMMUNICATIONS RESELLERS TO OBTAIN CICS

In its Public Notice, the Commission requested comment on the cost of the proposed CIC requirement for switchless resellers. Allegiance supports the majority of commenters who have persuasively shown that the costs involved in implementing CIC codes for long distance resellers will be substantial will be incurred not only by the resellers, but by facilities-based IXCs and LECs.

The TRA estimates the cost of implementation between $400,000 and $750,000 per CIC code, whereas Sprint estimates the cost between $600,000 and $1,000,000.[2] For its part, Allegiance estimates that its costs to obtain and implement its own CIC code nationwide could well be over $900,000. Moreover, as AT&T points out, carriers that resell the services of several IXCs will require a separate CIC for each IXC.[3] If required to incur these costs, small resellers may be forced to scale back operations and new resellers may abandon plans to enter the marketplace altogether. In addition to the costs imposed on long distance resellers, the IXCs and LECs will be required to modify their own networks to transmit the new CIC codes and to direct calls to the appropriate IXC trunk group.[4]

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[2] *See Comments of Telecom Resellers Association, at 7; Comments of Sprint Corporation,* 5 (filed March 18, 1999).

[3] *See Supplemental Comments of AT&T*, at 5 (filed June 13, 2000).

[4] *Id.* at 4-6; *WorldCom Comments* at 4-5 (filed June 13, 2000).

Requiring telecommunications resellers to obtain their own CIC codes may also result in diminished competition in the long distance market. As WorldCom notes, imposing a CIC requirement on resellers may not only create barriers to market entry, but also deter resellers who decide to absorb the CIC code costs to remain in the market from switching IXCs to get a better price for their end users. This "lock-in" effect cannot help but depress competition in the resale market, and in the long distance market overall.[5]

Therefore, requiring long distance resellers to obtain their own CIC codes is costly, unproven, and at most indirect, mechanism to address the "soft slamming" problem.

II. SEPARATE PURCHASE OF TRANSLATION ACCESS OR FUNCTIONALLY EQUIVALENT SERVICE IS ~~ARE~~ NOT A VIABLE ALTERNATIVE~~S~~

In its Public Notice, the Commission asked for comment on whether it should require LECs to offer translation access, or an equivalent service, separately from Feature Group D access. However, the record makes clear that industry guidelines do not presently permit the assignment of CIC codes for translations access to be offered separately from trunk access.[6] Moreover, major ILECs would strongly oppose any requirement that they do so.[7] In any event, even if resellers were relieved of the burden of purchasing Feature Group D trunks that they do not need, their costs to implement CIC codes would not be reduced to a significant extent. As WorldCom correctly noted, the bulk of the costs associated with implementing a CIC code is attributable to the installation charges for translations access, not to the costs of the Feature

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[5] *See Comments of WorldCom, Inc.*, at 5 (filed June 13, 2000).

[6] SBC Comments at 2.

[7] *Id.*

Group D trunks. Resellers would still be forced to incur these installation costs if translations access were unbundled from Feature Group D access.[8]

III. REQUIRING RESELLERS TO OBTAIN THEIR OWN CICS MAY CAUSE PREMATURE EXHAUST OF THE EXISTING CIC CODE SUPPLY

As SBC Communications notes, "CICs are a limited commodity and any heightened demand for CICs [will] hasten the exhaustion of their numbers."[9] CIC codes recently were converted from three to four digit numbers in a lengthy and costly process. Industry estimates the conversion cost at more than one billion dollars. Requiring long distance resellers to obtain their own CICs would place enormous demand on the finite supply of unused four digit CICs. The industry may then be required to convert to five digit CIC codes in order to accommodate this increased demand.[10] Allegiance submits that the billion dollar plus price tag of establishing new five digit CIC codes must be weighed against the unproven effectiveness of reseller CIC code assignments to deter "soft slamming." At the very least, the Commission should take no action until it has the opportunity to evaluate how well its new truth in billing and slamming rules work in terms of reducing, or eliminating, the unauthorized carrier change problem. Requiring resellers to obtain their own CIC codes before the effectiveness of the new rules has been tested may result in extremely costly overkill.

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8 *WorldCom Comments* at 3-4.

9 *See Comments of SBC Communications, Inc.*, at 6 (filed June 13, 2000).

10 *See id.*, at 6.

IV. THE COMMISSION SHOULD ALLOW SUFFICIENT TIME TO JUDGE THE EFFECTIVENESS OF NEW SLAMMING REMEDIES

The FCC recently has adopted new tools designed to combat slamming, including "soft slamming." For example, the Commission's new truth in billing rules, as AT&T notes in its comments, have already begun to have a "measurable beneficial impact in controlling all forms of slamming," not the least of which is "soft slamming."[11] These rules require all common carriers to provide "clear and conspicuous notification" of the identity of the service provider associated with each charge.[12] This should deter soft slamming by ensuring that the identity of the long distance reseller is revealed to the consumer. It is also important to note that the very first sentence of the Commission's truth in billing rules declares that its purpose "is to reduce slamming and other telecommunications fraud by setting standards for bills for telecommunications service," signifying that the Commission had slamming clearly in mind when implementing this consumer protection measure.[13]

Additionally, the Commission recently observed that prior to the May 1999 stay of its slamming rules, the Enforcement Division of the Common Carrier Bureau, as well as local exchange carriers, experienced a "sharp decrease" in slamming complaints.[14] Last month, the Commission released revised rules, which, among other things, are designed to take the profit out

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[11] *See Supplemental Comments of AT&T*, at 2.

[12] *See* 47 C.F.R. § 64.2401 (2000).

[13] *See* 47 C.F.R. § 64.2400(a).

[14] *In the Matter of Implementation of the Subscriber Carrier Selection Changes Provision of the Telecommunications Act of 1996,* First Order on Reconsideration, CC Docket No. 94-129 (released May 3, 2000), at ¶4.

of slamming.[15] Once these rules go into effect, there is likely to be a similar decrease in the incidence of slamming. Prior to imposing costly CIC code requirements on resellers, the Commission should allow a reasonable period of time to pass so that it can assess the effectiveness of these new rules in deterring "soft slamming." To the extent that the new rules effectively address the slamming problem, imposing costly CIC code requirements on resellers may prove to be unnecessary.

V. CONCLUSION

For the foregoing reasons, Allegiance Telecom, Inc. respectfully requests that the Commission not require long distance resellers to obtain their own CICs at this time and instead to rely on measures and remedies already available to the Commission in order to combat "soft slamming."

Respectfully Submitted,

Patrick J. Donovan
Michael J. Mendelson
Swidler Berlin Shereff Friedman LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007
(202) 424-7500

Counsel for Allegiance
Telecom, Inc.

Robert W. McCausland
Vice President - Regulatory and Interconnection
Mary Albert
Regulatory Counsel
Allegiance Telecom, Inc.
1950 Stemmons Freeway, Suite 3026
Dallas, Texas 75207-3118
(214) 261-8730

Dated: June 20, 2000

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[15] *Id.*

CERTIFICATE OF SERVICE

I hereby certify that the Reply Comments of Allegiance Telecom, Inc. in CC Docket No. 94-129, was served to the following list of parties, via first class postage pre-paid mail on June 20, 2000.

Valerie M. Steen

SBC COMMUNICATIONS, INC.
1401 "I" Street, NW
Suite 1100
Washington, DC 20005

Michael B. Fingerhut
Norina T. Moy
Sprint Corporation
401 9th Street, NW
Suite 400
Washington, DC 20004

L. Marie Guillory
Daniel Mitchell
National Telephone Cooperative Association
4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203-1801

Philip F. McClelland
Senior Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, Forum Place, 5th Floor
Harrisburg, PA 17101-1923

William Irby
Director, Division of Communications
Virginia State Corporation Commission
P.O. Box 1197
Richmond, VA 23218

Mary L. Brown
Karen Reidy
WORLDCOM, INC.
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006

John M. Goodman
Bell Atlantic, Inc.
1300 I Street, N.W.
Washington, D.C. 20005

Lawrence E. Sarjeant
United States Telecom Association
1401 H Street, N.W.
Suite 600
Washington, DC 20005

Peter H. Jacoby
AT&T Corp.
295 North Maple Avenue
Room 1134L2
Basking Ridge, NJ 07920

Thomas R. Parker
GTE Service Corporation
600 Hidden Ridge, HQE03J27
P.O. Box 152092
Irving, TX 75015-2092

Andre J. Lachance
GTE Service Corporation
1850 M Street, N.W.
Washington, DC 20036