

COVINGTON & BURLING

ORIGINAL EX PARTE OR LATE FILED

1201 PENNSYLVANIA AVENUE NW WASHINGTON, DC
WASHINGTON, DC 20004-2401 NEW YORK
TEL 202.662.6000 LONDON
FAX 202.662.6291 BRUSSELS
WWW.COV.COM SAN FRANCISCO

GERARD J. WALDRON
TEL 202.662.5360
FAX 202.778.5360
GWALDRON@COV.COM

November 22, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

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 Under the Telecommunications Act of 1934, As Amended

Ex Parte Communication

Dear Ms. Salas:

This letter is to inform you that the undersigned and Lois Pines, representing InfoNXX, Inc., met on November 21 with Dena Shetler, Legal Advisor to Commissioner Tristani; Kyle Dixon, Legal Advisor to Commissioner Powell; Greg Cook with the Network Services Division of the Common Carrier Bureau; and on November 22 the undersigned met with Anna Gomez, Senior Legal Advisor to Chairman Kennard; and Jordan Goldstein, Legal Advisor to Commissioner Ness (along with Ms. Pines by telephone). In these meetings we urged the Commission to take prompt action on the pending rulemaking to enable competitive directory assistance providers to have access to directory listings at nondiscriminatory and reasonable rates. The attached document was distributed and more completely covers the substance of the meetings.

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Please direct any questions regarding this notice to the undersigned.

Sincerely,


Gerard J. Waldron
COVINGTON & BURLING
1201 Pennsylvania Avenue N.W.
Washington, D.C. 20044
(202) 662-6000 (t)
(202) 662-6391 (f)

Counsel to INFONXX

cc: Ms. Anna Gomez
Mr. Jordan Goldstein
Ms. Dena Shetler
Mr. Kyle Dixon
Mr. Greg Cook

Access to
Directory Assistance Listings

CC Docket No. 99-273

InfoNXX, Inc.

November 21, 2000

The Process Has Dragged On Too Long

- **February 1999** - First approached the FCC
- **September 1999** - NPRM issued
- **October 13, 1999** - Comments
- **October 28, 1999** - Reply Comments
- It's been **nearly two years** since the idea was presented and **over one year** since the pleading cycle was complete.

Third-Party DA Providers Are Important in a Competitive Local Market

- InfoNXX is an independent DA provider that provides DA services branded for CLECs and wireless carriers.
- InfoNXX's service is an alternative to ILEC and self-provision of DA services.
- Without accurate listings at reasonable prices, independent providers cannot truly compete and provide this valuable alternative.

Independent Providers Are Entitled to Access to DA Listings

- LECs must provide access to DA listings under Section 251(b)(3).
- Independent DA providers are entitled to access as
 - CLECs, because they provide **call-completion**;
or
 - **agents of CLECs**, entitled to the same access as their CLEC principals.

Access Under 251(b)(3)

- Access must be provided on a **nondiscriminatory** basis:
 - the same rates that LECs charge other CLECs.
- Rates must also be **reasonable** under Sections 201/202.
- Reasonable rates are **cost-based**.

What Are Reasonable Rates?

- States have determined reasonable rates
 - *e.g.*, New York set the price of listings for the entire state at \$83,341 for the initial load and the equivalent of \$0.0083/listing for updates; Texas found SWBT's cost-based rate to be \$.0011/initial listing.
- It is not reasonable for the Bells to dictate what they charge.
- Market-based rates cannot apply when there is no true market for DA listings.
 - The Bells maintain bottleneck control over the most perfect compilation of DA listings available.

SBC and BellSouth's Arguments For Cost-Based Pricing Are Misconceived

- “DA listings are a competitive service according to the *UNE Remand Order*.”
- **The market for OS/DA services may be competitive, but the market for listings is not.**
- **The ILECs maintain bottleneck control.**
- **Listings are a necessary input for providing competitive DA services.**
- **SBC/BS are trying to destroy the very competition that removed OS/DA services from the UNE list.**

Bell Arguments For Cost-Based Pricing Are Misconceived

- “LECs have no obligation to provide listings at cost-based rates under 251(b)(3).”
- **LEC pricing must be nondiscriminatory, including the same rates they charge themselves.**
- **Rates must be reasonable. Of course Section 201(b) applies.**
- **Reasonable rates are cost-based.**

Bell Arguments For Cost-Based Pricing Are Misconceived

- “If a service is not a UNE, then the market price should prevail.”
- **OS/DA *services* were removed from the UNE list; listings are an input to those services.**
- **Cost-based pricing of listings does nothing to the Bells’ ability to price OS/DA services at market rates.**
- **Listing rates in SBC Texas 271 case were UNE cost-based rates.**
- **Interconnection agreements contain market-based prices for many services for which a true market exists, but there is no true market for Bell DA listings.**