

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
2000 Biennial Regulatory Review --)
Unauthorized Changes of Consumers)
Long Distance Carriers)
)
Implementation of the Subscriber Carrier)
Selection Changes Provisions of the)
Telecommunications Act of 1996)
)
Policies and Rules Concerning)
Unauthorized Changes of Consumers)
Long Distance Carriers)

CC Docket No. 00-257

CC Docket No. 94-129

**COMMENTS OF THE UNITED STATES TELECOM ASSOCIATION
REGARDING THE THIRD FURTHER NOTICE OF PROPOSED RULEMAKING**

Pursuant to sections 1.415 and 1.419 of the Federal Communications Commission's (Commission or FCC) rules¹, the United States Telecom Association ("USTA"),² through the undersigned, hereby submits its comments in the above-captioned proceeding.³

I. BACKGROUND

In conjunction with the Commission's biennial regulatory review effort, the FCC proposes to modify the authorization and verification requirements of the Commission's carrier change rules to reduce regulatory burdens in situations involving the purchase or transfer of customer lines.⁴ In an effort to streamline this process, the Commission has also expressed its

¹ See 47 C.F.R. §§ 1.415, 1.419.

² For more than 100 years, USTA has been representing the interests of the small, mid-size and large companies of the nation's local exchange carrier industry. The Association represents more than 800 companies worldwide that provide local exchange, long distance, wireless, Internet, and cable services.

³ See, *in re* 2000 Biennial Regulatory Review, CC Docket No. 00-257, Unauthorized Changes of Consumers Long Distance Carriers Implementation of the Subscriber Carrier 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, FCC 00-451 (Third FNPR), *Fed. Reg.* 8093 (Jan. 29, 2001)(*to be codified at* 47 C.F.R. §64.1120).

⁴Third FNPRM at ¶¶ 4-5.

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desire to: (a) adequately protect consumers in terms of allowing the affected subscribers to receive reasonable advance notice of the carrier change associated with the sale or transfer; (b) enable subscribers to be told that they have the right to make another preferred carrier selection, if alternative carriers are available; (c) require the acquiring carrier to notify the consumer about its charges, rates, terms, and conditions; and, (d) require that the Commission receive notice prior to the sale or transfer of a subscriber base.⁵

The Commission specifically proposes to amend section 64.1120 to eliminate the need for authorization and verification of a carrier change to effect any sale or transfer of a subscriber base.⁶ Under the modification, the Commission contemplates imposing conditions such that, not later than 30 days before the closing of the transaction, the acquiring carrier must give each affected subscriber written notice that the acquiring carrier will be the new provider of telecommunications service for the subscriber.⁷ The notice shall include the rates, terms, and conditions of the services offered by the purchasing carrier, along with a statement that no carrier change charges will be imposed as a result of the transaction and that the subscriber has the right to select a different preferred carrier.⁸

II. USTA COMMENTS

- A. **The Commission should not mandate any required formats for any segment of customers, but should leave this to the carriers to address, individually. Any deficiencies in this regard should be addressed through enforcement, as a result of a complaint.**

The Third FNPRM solicits comment as to whether there is a need for acquiring carriers to provide these notices in accessible formats to people who are blind or visually impaired?⁹

⁵*Id.* at ¶ 5.

⁶*Id.* at ¶ 6.

⁷*Id.*

⁸*Id.*

⁹*Id.* at ¶ 6.

Each carrier should be free to make the determination as to how to best meet the needs of the disabled community to which they serve, as well as all segments of customers (e.g., non-English speaking consumers, etc.). Any notice deficiency, as opposed to customer abuse, should be addressed in an enforcement matter as a result of a complaint.

B. It should be an optional, not a mandatory, requirement that certification should include copies of sample notification letters.¹⁰

The requirement should be optional and not mandatory. To that extent, a description should be sufficient.

C. The proposed expedited process strikes an appropriate balance of the Commission's Section 258 rules and the goal to remove regulatory impediments to marketplace transactions, involving the sale or transfer of customer lines or accounts from one carrier to another.¹¹

Section 258 is designed to prevent the intentional abusive practice of slamming, i.e., the unauthorized change in a customer's telephone service. With respect to marketplace transactions involving the sale or transfer of customer lines or accounts from one carrier to another, a streamlined, expedited process can be established consistent with the Commission's Section 258 requirements. In this regard, what serves the customer is reasonable notice. Thus, as long as the customer receives sufficient notice, the Commission's Section 258 objectives would be satisfied.

D. The Commission should not require multiple notices, but should allow breakouts for different service categories in the same notice and should apply this requirement to all carriers, i.e., LECs and IXC.

The Third FNPRM solicits comment on whether notice requirements should differ depending upon the type of telecommunications service being provided, such as local, intraLATA toll, or interLATA toll service, or upon the size of the carriers involved?¹² The Commission should not require multiple notices, one should be sufficient. However, where there

¹⁰*Id.*

¹¹*Id.* at ¶ 7.

¹²*Id.*

are different classes of services and the different classes are available on a competitive basis from other providers, those services could be broken out, but on the same notice. This requirement should apply equally to all carriers, i.e., local exchange carriers and inter-exchange carriers.

E. The Commission should not impose additional customer-relations requirements on affected carriers.

The Commission asks whether any additional obligations should be imposed on the carriers, e.g., should the acquiring carrier be required to provide a toll-free customer service number to the affected subscriber in order to address any questions or problems that the subscriber may have concerning the change in service providers?¹³ The Commission should not impose additional requirements, such as requiring carriers to provide a toll-free customer service number, but instead should allow carriers to address any questions by virtue of the carrier's normal customer-relations strategy.

F. The Commission should not require the acquiring carrier to charge affected subscribers the same rates as those charged by the original carrier for a specified period after the transfer.¹⁴

Under both federal and relevant state regulations, carriers ordinarily have an obligation to charge customers rates that are just and reasonable. The Commission should not impose any other requirements aside from those requiring carriers to charge customers just and reasonable rates.

G. The Commission should not address the issue about the transfer of liability in the 258 context, but should do so in terms of the transfer or merger review process.

The Third FNPRM asks should the carriers commit to handling customer complaints regarding the service of the original carrier to ensure that the transferred subscribers are not

¹³*Id.*

¹⁴*Id.*

deprived of recourse after the transfer?¹⁵ Carriers may elect different approaches to address the issue of assumption of liabilities. The Commission should address this consideration in the transfer or merger review process and not in the context of the Section 258 expedited waiver process for transfer or sale of exchanges.

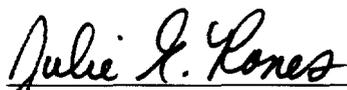
H. **The Commission should not impose on the entire industry specific measures to protect consumers from the few unscrupulous carriers that may attempt to sell their customer bases to evade the repercussions of Commission enforcement actions.**¹⁶

It is not believed that the abuses of the few should be visited upon the entire industry for corrective measures. Thus, where there is a specific instance of abuse, the Commission should rely upon the complaint process.

III. CONCLUSION

For the foregoing reasons, USTA urges the FCC to take all action in this matter consistent with USTA's recommendations, as noted herein.

Respectfully submitted,

By: 

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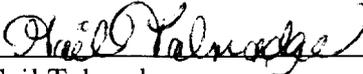
February 20, 2001

¹⁵*Id.*

¹⁶*Id.*

CERTIFICATE OF SERVICE

I, Gail Talmadge, do hereby certify that on February 20, 2001, a copy of *Comments of the United States Telecom Association Regarding the Third Further Notice of Proposed Rulemaking*, CC Docket No. 94-129, was either hand-delivered or deposited in the U.S. Mail, first-class, postage prepaid, to the persons on the attached service list.



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