

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 --)
 Review of Policies and Rules Concerning)
 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 SPRINT CORPORATION

Sprint Corporation ("Sprint") hereby respectfully submits its comments on the *Third Further Notice of Proposed Rulemaking*, FCC 00-451 ("*Third NPRM*") issued January 18, 2001 in the above-referenced dockets.

Sprint agrees with the Commission's tentative conclusion that the current requirement to obtain a waiver of the Commission's carrier change authorization and verification rules "is burdensome" in situations where the customer base of a carrier is being sold or transferred to another carrier. *Third NPRM* at ¶4. Sprint recognizes that the Commission has a strong interest in ensuring that consumers that are being transferred to another carrier are told of the pending change and are informed of their ability to select another carrier. But requiring carriers to obtain waivers of the Commission's carrier change rules is a cumbersome way to advance such interest. Carriers must expend significant resources to obtain such waivers that might be better devoted to

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ensuring that the customers are transferred in as seamless and transparent a manner as possible. Moreover, because carriers cannot be certain when their waivers will be granted, consummation of their deals is usually delayed thereby adding to the overall costs of the transaction. *Id.* at ¶3.

For these reasons, Sprint welcomes and endorses the Commission's proposal to expedite the process "for handling the sale or transfer of a subscriber base." *Id.* at ¶5. Sprint agrees that, as long as the acquiring carrier provides notice at least 30 days prior to the planned closing of the transaction to both the Commission and to the customers affected by the sale or transfer, it need not seek a waiver of the Commission's authorization and verification rules as set forth in 47 C.F.R. §64.1120 to purchase or assume control of the subscriber base of another carrier.¹ Sprint further supports the Commission's conclusion that the acquiring carrier must inform the customer that it will be the customer's new service provider and that no change charges will apply; that the acquiring carrier must provide the customer with a description of the rates and other important terms and conditions of the services/products he/she may expect to receive from the acquiring carrier; that the acquiring carrier must inform the customer that he/she has the ability to select another carrier; and that the acquiring carrier must provide a toll free number for the customer to call "in order to address any questions or problems that the subscriber may have concerning the change in service providers." *Id.* at ¶¶6, 7

The Commission asks whether in addition to this initial letter it should "require the acquiring carrier to provide each subscriber with another written notice reiterating this

¹ Sprint believes that the 30 days advanced notice is sufficient to enable the affected subscribers to explore their options and secure an alternative service provider if they so desire. It also allows the Commission time to review the adequacy of the notice and, if necessary, require the carrier to send a follow-up letter if the initial letter is unclear or confusing.

information after the transfer has occurred. *Id.* at ¶6. Sprint believes that such follow-up letter would be a complete waste of resources. Given marketplace pressures and the necessity of promoting good relationships with the acquired customers, acquired carriers will, in all likelihood, send welcoming packages to their new customers. Plainly, such packages serve to provide notice to these customers that the acquisition has occurred and a separate post-acquisition follow-up letter would be redundant. Of perhaps greater significance, given the Commission's "Truth-in Billing" policies, acquired customers will receive actual notice of the switch when they receive their first bills from their new provider. Indeed, it may well be that for some customers, the bill will be the first time they focus on the fact that they are to be served by a new carrier. This is so because certain customers will think that the initial notice or perhaps carrier welcome package (if sent) is "junk mail" and toss it away without reading it. If they did not bother to read the first notice, they are just as unlikely to read a subsequent notice. Thus, a requirement for a post-acquisition letter would accomplish nothing except to force the acquiring carrier to incur needless costs which, in turn, will be passed onto their customers.²

² The Commission also asks whether it should require that the acquiring carrier provide these "notices in accessible formats to people who are blind or visually impaired." *Third NPRM* at ¶6. Sprint respectfully recommends that such requirement not be adopted. Sprint's recommendation here is not based on any insensitivity to the special needs of the blind or visually impaired. Rather, it is based on the fact that carriers -- even those like Sprint's subsidiaries who seek to make their services accessible to all persons regardless of any visual handicap by, for example, offering Braille and large print billing formats to requesting customers -- have no way of knowing the number of customers in their base who are blind or visually impaired and may need information in Braille or large print formats. Thus, a requirement that the acquiring carrier send its notices in accessible formats to the visually impaired would be unenforceable. The rule would have to contain an exception providing that the acquiring carrier need only send the notice in accessible formats to those it has reason to believe are visually impaired and want their notices in Braille or large print formats. But such exception simply swallows the rule.

Similarly, Sprint opposes any requirement that would obligate the acquiring carrier "to continue to charge affected subscribers the same rates as those charged by the original carrier." *Id.* at ¶7. Such requirement, if imposed, would be difficult -- and economically impractical -- to meet. This is so because the acquiring carrier is unlikely to provide same price/service options as the original carrier. Indeed, the acquiring carrier may not offer a particular feature, *e.g.*, call waiting, call forwarding, Internet access, that was being provided to the customers of the original carrier as part of a package. Even if the acquiring carrier offered a similar package of services of the original carrier but at a different rate or under a different rate structure, it would have to modify its billing systems in order to provide such similar service package at the rate and rate structure as the carrier being acquired. Modifications to billing systems are costly and take time to complete. Devoting resources to such task would be extremely wasteful since, as the Commission acknowledges, the requirement for providing the same rates to the affected subscribers would be imposed for only a limited amount of time.

Moreover, the service plans of the affected customers is customer proprietary network information ("CPNI") as that term is defined in Section 222(f) of the Act. 47 U.S.C. §222(f). Thus, the only way the acquiring carrier would be able to receive such information from the carrier whose customer base is being acquired is "upon affirmative written request by the customer." 47 U.S.C. §222(c)(2). Attempting to get such written consent at all, let alone in a timely manner, is not really feasible.³

³ Since Section 222(c)(2) confers upon the customers the right to protect and limit disclosure of their CPNI to others not affiliated with their carrier, it is at least questionable whether the Commission has the authority to waive this provision.

In any case, a requirement that the acquiring carrier charge the same rates as the original carrier is simply unnecessary in a competitive telecommunications market and is, in fact, indicative of the rather parochial view that consumers will not act in their own self-interest. As stated, the acquiring carrier will seek to retain as many customers of the original carrier as possible and not lose them to a competitor by offering such customers attractive price/service options within its portfolio of services offerings. Customers who are dissatisfied with the offerings of the acquiring carrier have the ability to switch to a another carrier. Moreover, if they become dissatisfied with the offerings of the acquiring carrier after the transfer is completed, they can switch to another carrier at that time. There is simply no public interest need -- and the Commission has not identified one in the *Third NPRM* -- for the Commission "to protect" those consumers who are unwilling, for whatever reason, to inform themselves of the various service options of the carriers competing in the marketplace. In short, there is simply no justification to require the acquiring carrier to charge the customers the same rates as the original carrier and should not be adopted.

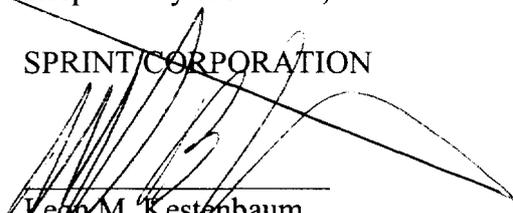
There is also no justification for a rule that would require the acquiring carrier to handle service complaints from customers of the transferring carrier that occurred prior to the transfer. *Third NPRM* at ¶7. Again it is problematic for the acquiring carrier will be able to obtain the CPNI of the transferred customers to enable the acquiring carrier to handle such complaints. Even if the acquiring carrier had access to such CPNI, it undoubtedly would be difficult for such carrier to incorporate the data into their systems so as to enable its customer service representatives to handle such complaints. The original carrier is likely to utilize different systems and nomenclature to record its relationship with its customers. Of probably greater importance, the carrier that is getting rid of its customer base in whole or in part may not have

kept records of the facts in such manner that would enable the acquiring carrier to even begin to understand the underlying dispute. For these reasons Sprint believes that the acquiring carrier should be responsible only for handling customer inquiries related to the acquisition itself.

Finally, the Commission asks if it "should adopt specific measures to protect consumers from unscrupulous carriers that may attempt to sell their customer bases to evade the repercussions of Commission enforcement actions." *Id.* The Commission will have at least 30 days advance notice of the transaction. During such period the Commission could ensure for itself that the original carrier is not trying "to evade the repercussions of Commission enforcement actions." If the Commission discovers that such carrier is attempting such evasions, it can act to halt the closing of the transaction and require the parties to re-structure their deal so as to ensure compliance by the original carrier with Commission enforcement actions. Thus, no such "specific measures" are necessary.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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