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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 31, 2001

Ms. Magalie Roman Salas
Secretary, Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, DC 20554

Re: CC Dkt. 99-273, Provision of Directory Listing Information Under the
Telecommunications Act

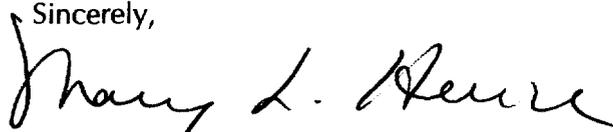
Dear Ms. Salas:

On July 30, the undersigned and Angela Brown of BellSouth and Janine Quinn and Michael Yoest of SBC met with Greg Cooke, Rodney McDonald, and Pam Slipakoff of the Common Carrier Bureau's Network Services Division. Shauna Ellis of SBC participated via conference call.

The purpose of the meeting was to discuss issues raised in the joint SBC/BellSouth Petition for Clarification or Reconsideration of the FCC's First Report and Order in the above referenced docket. Material covered in the meeting is attached.

This notice is being filed pursuant to Sec. 1.1206(b)(2) of the Commission's rules. If you have any questions concerning this filing, please do not hesitate to contact me.

Sincerely,



Mary L. Henze

cc: G. Cooke
R. McDonald
P. Slipakoff

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**PROVISION OF
DIRECTORY LISTING
INFORMATION**
CC Docket No. 99-273

BellSouth & SBC Ex Parte
July 30, 2001

PURPOSE

To discuss SBC/BellSouth
Petition for Clarification or
Reconsideration of the FCC's
First Report and Order, CC
Docket No. 99-273 (rel. Jan. 23,
2001).

SBC/BellSouth Petition

Petitioners asked the FCC to conclude that:

- **Section 251(b)(3) does not preclude carriers from imposing reasonable restrictions on the ability of DA providers, including their agents, to use DA listings for non-DA purposes.**

- 2. LECs that have purchased DA listings from another LEC or third party are not required to make these listings available to competing carriers or their agents on a nondiscriminatory basis.**

Use Restrictions

FCC should conclude that Section 251(b)(3) does not preclude a LEC from applying reasonable restrictions on the use of DA listings for non-DA purposes.

Examples of reasonable use restrictions:

- 1) Prohibition on use of DA listings for sales, solicitation, or telemarketing
- 2) Prohibition on bulk resale of DA listings

Reasonable use restrictions are consistent with the 1996 Act:

- 1) Prohibiting use restrictions would allow competitive carriers and their agents to sell DA listings, which contain non-listed names and addresses, to directory publishers or even publish directories themselves – clearly against the wishes of non-listed subscribers and contrary to Congressional intent.
- 2) Congress and FCC found nondiscriminatory access to DA listings necessary to enable competing carriers to provide underlying telecom service. Use of DA listings for non-DA purposes does nothing to promote competition in the telecom marketplace.

Reasonable use restrictions are supported by tariffs and interconnection agreements approved by state commissions.

FCC should not allow DA providers serving as agents to obtain DA listings on behalf of a single carrier-principal and subsequently use that same DA information to serve multiple carrier-principals.

Access To Listings Purchased From Third Parties

ILECs that purchase listings from another LEC or third-party should not be obligated to provide nondiscriminatory access to such listings.

- ILECs do not exercise monopoly power over DA listings purchased from others because the data does not belong to the ILECs.
- In the NDA Order, the FCC concluded that, if a LEC does not exercise monopoly power over DA listings, the LEC should not be required to provide nondiscriminatory access to such listings (*e.g.*, nonlocal DA listings). 14 FCC Rcd 16252, 16271, ¶ 33 (1999).
- Competitive carriers have the same opportunity to secure these DA listings in the open market in order to obtain listings for the customers of independent LECs or CLECs.

Conclusion

The FCC should:

- Clarify that restrictions that currently exist, either in ILEC/CLEC interconnection agreements or in valid tariffs approved by state commissions, may continue to be applied consistent with the 1996 Act so long as they do not frustrate and are not inconsistent with the pro-competitive principles of the 1996 Act.
- Conclude that ILECs that have purchased DA listings from another carrier or third party are not required to make these listings available to competing carriers or their agents on a nondiscriminatory basis.