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By Federal Express & By Hand

March 27, 2002

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: CC Docket Nos. 92-105, 99-273 & 92-237

Dear Ms. Roman Salas:

Enclosed for filing are and original and eight copies of the Comments of Metro One Telecommunications, Inc. in the above-captioned dockets. Should you have any questions concerning Metro One Telecommunications, Inc., please contact the undersigned.

Very truly yours,

Peter A. Casciato
Attorney for Metro One Telecommunications, Inc.

enclosures

cc: Karen Johnson
Judy Boley
Pam Slipakoff w/disk
Edward Springer
Qualex International w/disk

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Provision of Directory Listing Information Under the Communications Act of 1934, As Amended	)	CC Docket No. 99-273
	)	
The Use of NII Codes and Other Abbreviated Dialing Arrangements	)	CC Docket No. 92-105
	)	
Administration of the North American Numbering Plan	)	CC Docket No. 92-237

COMMENTS OF METRO ONE TELECOMMUNICATIONS, INC.

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March 27, 2002

SUMMARY

1. The directory assistance market is dominated by the incumbent local exchange companies and their wireless carrier alter egos.

The directory assistance ("DA") market is presently a 5.4 billion call volume market which is expected to increase to 6.4 billion calls within the next five years. It is also a $4 billion revenue market with enhanced directory services ("EDA") expected to generate an additional $4.1 billion within the next five years.

Although it is a huge market, it is dominated by the ILECs and their wireless affiliates. The ILECs control 80% of the revenues on the wireline side and the wireless carriers control the wireless market in its entirety by denying any form of access for their subscribers to the DA toll provider of their choice. In each case, these carriers monopolize 411 for DA and EDA access. Moreover, most of the largest wireless providers are affiliates of the ILECs, share their DA operations and absorb any loss of ILEC market share, thereby immunizing the ILECs from competitive pressures.

Under these circumstances, the Commission must act to remove operational and regulatory barriers to entry if it is to give meaning to its duty to promote increased competition in telecommunications markets under the Telecommunications Act of 1996. The Commission has already acted to assure that competitive DA toll providers have access to subscriber information on the same rates, terms and conditions as the ILECs, consistent with Sections 251, 201 and 202 of the Communications Act of 1934, as amended. However, such access is meaningless, unless a telephone subscriber can access the DA toll provider of its choice in the same manner as the monopoly carrier providers. One cannot be said to have nondiscriminatory access to the school of DA assistance providers if the very key to admission, dialing parity, is denied.

2. The Commission, first and foremost, should require and enforce the implementation of 1010 dialing access numbers for all wireless carriers and local exchange companies as the first step in promoting a competitive directory assistance market.

The Commission can assure a level playing field by taking a series of steps designed to mitigate the ILEC/ wireless carrier monopoly with minimal disruption. First and foremost, it can order that the established access dialing pattern of 1010 be implemented by all LECs **and wireless carriers**, who but for AT&T are largely controlled by, or are in fact, the alter egos of the ILECs. This simple requirement is technically feasible already exists in the wireline market and only requires a switch translation at the expense of the DA toll provider exchange. This least restrictive procompetitive action would allow competitive DA toll provider to immediately compete against the wireline and wireless monopoly carriers and provide telephone subscribers a bonafide choice of DA toll providers through the use of a viable access number.

This opportunity to compete is completely denied in the wireless market today. Moreover, it will continue to be denied to competitive DA toll providers everyday into the future unless and until the Commission intervenes to promote a more level playing field. Without such a step the Commission's previous 1010 order with respect to wireline is neutered as wireline carriers are using their dominance in wireless as an anticompetitive weapon in both arenas.

Second, with the time bought by this first step, the Commission can then order other forms of DA access dialing patterns such as 411-ACIC (a carrier identification code), 555-XXXX dialing be implemented in the wireline market and, thereafter, consider their extension to the wireless market. Finally, the ultimate step of a requirement for either ANI 411 presubscription or voice recognition presubscription whereby the telephone subscriber can make a choice of DA toll provider each time it dials 411 can be considered.

These steps can be taken seriatim so that, in an even-measured and non-confusing fashion for consumers, the ILEC and wireless carrier monopoly control of the 411 access dialing pattern can first be mitigated and then broken. The result will be a level playing field and a competitive market that will promote innovation and customer service for all telephone service subscribers is the market for DA EDA services.

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Metro One Telecommunications, Inc., by its attorney and pursuant to DA02-263, CC Docket No. 99-273, released February 5, 2002, hereby submits its Comments.

1. Background

Metro One is a national provider of enhanced information and telecommunications services. It is certified to provide toll services including directory assistance ("DA") in Oregon, Washington and California, holds a Carrier Identification Code, and has obtained an Operating Company Number issued by the National Exchange Carrier Association. Metro One's services currently include the provision of Enhanced Directory Assitance ("EDA"), with both intraLATA and interLATA live operator-assisted call completion, to end-users of wireless carriers as the agent of certain wireless carriers. Metro One also offers its services to landline-based carriers, including competitive local exchange carriers ("CLEC's").

Metro One is headquartered in Beaverton, Oregon and has 31 DA call centers located throughout the United States. Metro One has invested millions of dollars in its

facilities and has built multiple call centers to better serve its customers (ultimately subscribers/ consumers) with redundant high availability systems and operators who can provide in-depth knowledge of local information. One or more of Metro One's DA call centers are located in each of the Regional Bell Operating Company ("RBOC") operating areas. Metro One's EDA services enable end-users to obtain "traditional" DA (i.e., telephone numbers of individuals and entities), as well as a host of enhanced DA ("EDA") services. Metro One's EDA services include movie listings, information on local events, reservations (such as concerts and sporting events), geographic directions, weather warnings, private directory access and school closings.

2. The DA and EDA Market, Wireline and Wireless, Is Vast and Expanding. (NPRM Section III B.)

The market for the competitive provision of directory assistance ("DA") has vastly expanded such that the combined wireline and wireless market generated close to $4 billion in revenue in 2000.[1] These revenues are based on over 5.4 billion DA phone calls in the United States in 2000 with projected calls exceeding 6.4 billion from both these sources of DA in 2007.[2] Moreover, Frost & Sullivan project revenues from the EDA market to climb to over $4.1 billion by 2007.[3]

Consumer demand for directory assistance information is exploding. As Frost & Sullivan point out,

> With the growth in business activity and the rise in consumer mobility, the information needs of people have grown significantly. The growing trend, by businesses and citizens, of changing their telephone numbers and addresses has led to an increase in usage of directory assistance services by commercial users. Additionally, the emergence [of] changing and

[1] 2001 Frost & Sullivan (F&S) Wireline and Wireless DA Market Reports at 61 and 35, respectively. Attachments 1 & 2, respectively, are those two F&S Reports.
[2] F&S Wireline Rpt at 32; F&S Wireless Rpt at 16
[3] F&S 2002 Enhanced Directory Services Report, Executive Summary at 3.

> newly created area codes contributes to the use of directory assistance services.
>
> The growth in competition has led to an increase in the number of service providers, not all of whom publish directories of their subscribers. When a competitive local exchange carrier (CLEC) acquires an ILEC subscriber, that subscriber will more than likely be omitted from the ILEC's print directory. In order for customers to locate these directory listings, they generally have to rely on telephone directory assistance to obtain that information. Therefore, the growing needs of customers for updated directory information are driving revenue growth for the wireline service providers.[4]

Although the DA market is vast, growing and developing new products that customers want, competition among DA carriers in the retail DA market is not flourishing because the market is dominated by the ILECs on the wireline side and the facilities-based wireless carriers in the wireless market. As further discussed infra, the ILECs have 80% of the local DA market and substantial control of DA revenues in each of their franchised territories without any significant threat from any competitors in the foreseeable future.[5] This holds true for obvious reasons. The ILECs maintain a wireline monopoly over the 411 dialing pattern, both for local and national DA, making available only inferior dial-around patterns as the sole source for consumers to access independent DA toll service providers, such as Metro One.

The wireless DA market is even less competitive than the wireline DA market. Toll carriers, such as Metro One, that are not facilities-based wireless carriers or affiliates thereof, are foreclosed from the wireless DA market because the wireless carriers will not allow such independent toll service providers to offer their DA service directly to wireless carrier customers even via the use of Commission established dial around patterns such as 1010 dialing.

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[4] F&S Wireline Rpt at 14.

For example, neither Qwest nor Verizon Wireless, when requested to do so in 2001 by Metro One, would agree to allow Metro One to offer competitive DA service to their respective wireless customers using a casual dialing pattern, 101-ACIC-0 or ACIC-1, commonly known as a 1010 dialing pattern for access.[6] In addition, Metro One has also been denied the use of two 555-XXXX numbers assigned it by NANPA by both wireline and wireless carriers. Instead, both the ILECs and the wireless carriers maintain monopoly control over 411 for their customers in their licensed territories.[7]

Ironically, the only threat to ILEC dominance in the overall DA market comes from the wireless facilities-based carriers some of the largest of which are the affiliates of the ILECs such as Verizon, Qwest, SBC and Bell South.[8] Thus, whatever market share the wireline ILEC may lose is by and large acquired by their wireless affiliates.[9] As Frost & Sullivan found:

> Local directory assistance providers are faced with intense competition from wireless directory assistance providers. Wireless services and calling plan fees are rapidly declining. More subscribers are beginning to use their wireless phones as their primary telecommunication method and scaling back on consumer wireline service. .[10]

Thus, though it may be helpful to segment the DA market into wireline and wireless market for purpose of analysis, the fact is the Commission must look at the DA market as a unified one because (i) the convenience, ubiquity and price of wireless DA Service is competitive with and destined to surpass wireline use and (ii) almost all the wireless

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[5] F&S Wireline Rpt at 38 & 54.
[6] The additional last digit indicates whether the consumer is accessing the operator network therefore dialing an "0", or engaging a direct dial number, dialing "1" as the last digit.
[7] Presently, the only way that an independent DA carrier such as Metro One has entered the wireless market is by agreement with a wireless carrier via an agency relationship.
[8] SBC and Bell South are partners in Cingular Wireless.
[9] F&S Wireline Rpt at 5 & 52.

carriers are affiliates of the ILECs. For example, Attachment 3 contains information for Qwest which shows that Qwest markets its wireline, wireless and other services together using one bill. Moreover, as the Frost and Sullivan reports make clear, no competitor will survive and have the opportunity to flourish in this DA market unless it has access to the combined wireline/wireless DA market with branded products that can chip away at the overwhelming advantage that the wireless carriers and ILECs have with their respective monopoly over 411 dialing for their captive customers.[11]

3. The Commission Should Immediately Implement 1010 Access Dialing For DA Toll Providers In Wireline and Wireless Markets. (NPRM Section III.B)

Given the overwhelming monopoly position of the ILECs and the wireless carriers that the ILECs control in the DA market, the Commission must act to promote competition consistent with its duties under the Act to provide telephone service subscribers access to the DA provider of their choice and the innovation that only competition promotes. In this regard, Metro One advocates a step by step approach.

The first step is relatively easy: require all local exchange companies and wireless carriers to accept and implement 1010 dialing within 30 days of a request from a DA toll provider. This first step is merely an extension of the existing 1010 order to wireless. This extension will close the loophole that allows the ILEC wireless affiliates to thwart competitive DA toll provision in the wireless market.

For most carriers, 1010 dial-around numbers are non-controversial dialing but a few carriers and, notably, the wireless industry will not allow a competitive DA telephone toll provider to establish a 1010 dialing, thereby thwarting subscriber choice of DA telephone toll provider. Thus, not only is Commission action warranted in this regard but merely

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[10] F&S Wireline Rpt at 52.
[11] See F&S Wireline Rpt at 71.

requiring 1010 access dialing to promote consumer choice of DA toll provider is the least restrictive action the Commission need take.

Attachment 3 hereto depicts the easy manner in which a minor switch translation be programmed into a carrier switch, be it wireline or wireless, and how that translation will enable calls to competitive DA toll providers to be routed. The cost for such a translation is minimal since it has already been done for a variety of uses on the wireline side for carriers such as AT&T and MCIWorldcom. Moreover, the DA toll provider would pay the cost of that translation and for the trunking that routes the call to the DA toll provider and any further trunking needed to complete the call. Thus, taking this first small step is economical and technically feasible and its benefit of telephone subscriber choice far outweighs the minimal cost it requires.

4. Two Other Alternative Dialing Access Patterns Should Be Implemented for Customer Access To Alternate DA Toll Providers Followed By Presubscription. (NPRM Section III D.3-5)

Once 1010 dialing is available to all telephone subscribers for both wireline and wireless access to the DA toll provider of their choice, the Commission's next step would be to order the creation and implementation of two other dialing patterns for subscriber access to competitive DA toll service providers in the wireline market,411 plus four digit CIC codes; and 555 -XXXX. See Section 5 below and Attachments 4 & 5. Once implemented in the wireline market, the Commission could then consider extending the dialing patterns to the wireless carrier market.

Meanwhile, the Commission should consider alternate forms of presubscription either (i) AIN-based 411 dialing or (ii) voice recognition presubscription with 411

dialing. Under this latter system, as discussed infra, customers would still dial 411 but they would be prompted to verbally state the name of the DA toll provider of their choice and then be routed to that carrier or a default carrier in the event the speech recognition system did not recognize the customer's request. See Section 7b, below.

Ultimately, the elimination of the 411 monopoly may be the only way to assure that competitors have the same access to customers as the ILECs and incumbent wireless carriers. Thus, Metro One suggests that the Commission explore presubscription concurrent with the implementation of the two further alternate dialing plans, in the wireline market. This delay would make sure that captive customers who are accustomed to accessing only one carrier through 411 are not jarred or confused by the disappearance of traditional 411 dialing and its replacement with an immediate choice of alternative DA carriers either through traditional presubscription or voice recognition presubscriptionIt would also allow consumers the time and opportunity to be educated as to how to access competitive DA. Then, when presubscription is effectuated either by balloting or the suggested speech recognition system, customers can make an informed choice as to their DA toll provider.

5. The Commission Has Plenary Authority Under the Act to Mandate Alternate Dialing Patterns and Presubscription For Customer Access To The DA Telephone Toll Services Provider of Its Choice. (NPRM Section III.A)

The FCC has plenary authority under the Communications Act of 1934, as amended, ("Act") to take the steps recommended by Metro One to provide both wireline and wireless consumers immediate ways to access competitive DA toll providers of their choice via alternate dialing patterns. In fact, the Commission has already taken that step with regard to wireline; it merely must extend the order to wireless carriers. Likewise,

that plenary authority extends to the ordering of ANI 411 presubscription or voice recognition presubscription.

As this NPRM states, the Commission has already determined that it has exclusive jurisdiction over all portions of the North American numbering plan that pertain to the United States, including the 411 dialing pattern for directory assistance as a basic service or adjunct basic service.[12] That jurisdiction extends to making public interest findings as to the assignment of N11 Codes. Significantly, as the instant NPRM points out, 411 has never been permanently assigned to any carrier for DA service.[13] Thus, its assignment, reassignment, modification or elimination are options fully within the authority of the Commission to exercise.

The Commission's exclusive authority over numbering coupled with (i) the statutory requirement of dialing parity and nondiscrimination for access to directory assistance under Section 251(b) of the Act, and (ii) the nondiscrimination requirements of Sections 201 and 202 of the Act, provide the Commission ample statutory authority to promote alternate dialing patterns to DA access and, ultimately, to order presubscription and the elimination of 411 dialing monopolies. In that regard, nondiscriminatory access to DA service cannot, by definition, be nondiscriminatory if only one party controls the principal or only means of access, 411 dialing, effectively leveraging monopoly control of such access to preclude or thwart competition.

The Commission has already determined that the DA market will not be competitive as long as incumbents have the ability to leverage their monopoly control of

[12] The Use of N11 Codes and Other Abbreviated Dialing Arrangements, 6 CR 695, 696 & 702 (1997).

[13] NPRM at fn. 42.

their DA databases.[14] Monopoly control over the means of accessing DA via 411 dialing and leveraging that monopoly in the marketplace is just as much an anticompetitive barrier as ILEC refusal to provide DA listings in a nondiscriminatory fashion to competitive DA toll providers. Thus, the 411 access code is no less a sine qua non of a competitive level playing field than the underlying databases for which 411 serves as the gatekeeper.

This holds true not only for ILECs but for wireless carriers. Section 251(b)(3) requires all local exchange companies "to provide dialing parity to competing providers of telephone exchange service and telephone toll service . . . ." In turn, Section 332(c)(8) of the Act also requires such equal access if the Commission finds that subscribers to such [telephone toll] services are denied access to the provider of telephone toll services of the subscribers' choice and that such denial is contrary to the public interest, convenience and necessity. . . ." Presently the wireless carriers deny access to competitive DA toll providers via any alternate dialing pattern is prima facie evidence that subscribers are being denied the DA toll services provider of their choice. Given, as the Commission has stated, that its mandate under the Act is to remove statutory, regulatory, economic and operational impediments to competition[15], it is in the public interest to afford wireless subscribers the same choice of DA toll services provider as is afforded to wireline customers. [16]

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[14] See Provision of Directory Listing Information Under the Telecommunications Act of 1934, as amended, FCC 01-27, released January 23, 2001, at para. 3.

[15] (Ibid. at para. 7)

[16] The Commission is also empowered by Sections 301 and 303(r) of the Act to make rules and regulations not inconsistent with law to carry out provisions of the Act. See e.g. Revisions of the Commission's Rules to Ensure Compatability With Enhanced 911

This public interest finding is supported by the facts and public policy as detailed herein. As the F&S Reports indicate, the wireless DA volume of call growth rate has exceeded wireline volume growth rate by 11-14% from 1999-2001 and this double digit growth rate disparity is anticipated to continue through 2007.[17] Indeed, the F&S Wireline Report makes clear that the ILECs face intense competition from only one sector in the DA market, the wireless carrier DA providers, the largest of whom (other than AT&T) are affiliates of the ILECs e.g. SBC/BellSouth, Verizon and Qwest.[18] As Frost & Sullivan state,

> The declining wireless prices and their increasing subscriber base is suppressing the growth of wireline voice services, including directory assistance. The rise in consumer mobility coupled with the need for constant communications is leading to a greater demand for wireless service. Add to this the future improvements and enhancements promised by Third Generation technology, and wireline communication is in serious trouble of losing some of its subscriber base. Wireless growth rates are constantly in double digits year after year. Wireline growth, while still positive, is decreasing. This is the best and most concrete proof that the trend towards less wireline service is growing.[19]

Given these trends, any attempt to promote competition in the DA market and foster customer access to the DA toll provider of choice will fail unless the Commission addresses the entire DA market, both wireline and wireless. Moreover, the mandate for reasonable prices, practices and classifications as well nondiscriminatory customer access contained in Sections 201 and 202 of the Act cannot be assured unless the wireless market is treated in parity with the wireline market.

Section 332 (c)(8) of the Act contemplates the broad remedies that this NPRM entertains. As it states, the Commission shall prescribe regulations to afford subscribers

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Emergency Calling Systems, 3 CR 967, 973 (1996) at para. 10.

[17] See F&S Wireline Rpt at 32, F&S Wireless Rpt 16.

[18] F&S Wireline Rept at 5 & 52.

"unblocked access to the provider of telephone toll services of the subscribers' choice through the use of a carrier identification code assigned to such providers or other mechanism." Thus, assignment and implementation of 1010 dialing as well as 411-ACIC and 555-XXXX, as advocated by Metro One, are well within the Commission's statutory authority and in the public interest as the facts and law indicate. Likewise, 411 ANI presubscription or voice recognition presubscription also fall within the broad statutory boundaries.

Sections 251(b)(3), 3(47), 3(48) and 332(c)(8) do limit the nondiscriminatory access requirements to providers of telephone toll or telephone exchange service.[20] However, there is no reason that the Commission could not find that of Sections 201 and 202 of the Act are violated by the failure to treat all DA providers reasonably and in a nondiscriminatory manner.

6. The ILEC Domination of the Wireline Retail DA Market and the Wireless Carrier Domination of the Wireless DA Market Is The Result Of Operational And Regulatory Impediments to Competition Which The Commission Should Remove. (NPRM Section III. B-D)

The Commission has previously acknowledged in this docket that one of its principal goals is to promote increased competition in telecommunications markets that are already open to competition.[21] The Commission has further found that when consumers are allowed to pre-select their service provider and have their call routed to that provider via a standard dialing configuration, it opens markets to a greater number of

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[19] F&S Wireline Rpt at 17.
[20] Id. at paras 15-26.
[21] Provision of Directory Listing Information Under the Telecommunications Act of 1934, as amended, FCC 01-027, released January 23, 2001 at para.10.

competitive service providers, as is consistent with congressional objectives.[22] In furtherance of these goals, the Commission has also stated that the Act directs it to remove economic, operational and regulatory impediments.[23] The retail DA market, both wireline and wireless, has such serious impediments that must be eliminated or mitigated. Moreover, the extent of the demand for DA services, as discussed below, including enhanced DA services, warrants the Commission action requested by Metro One and others in this docket.

A. ILEC Control Of the Local Wireline DA Market

The ILECs control the wireline retail DA market and face no serious threat in that market segment. As the F&S Wireline Rpt states:

> The RBOCs control the local directory assistance market, and as of 2000, accounted for over 60 percent of market revenues and nearly 80 percent of the call volume. Despite the presence of CLECs, each RBOC has substantial control of directory assistance revenues in each of their territories. Frost & Sullivan does not foresee any significant threats to the RBOCs that may undermine their dominance.[24]

Frost & Sullivan characterize the local DA wireline market as tiered with the RBOCs comfortably holding a large advantage over the CLECs and the IXCs in the second tier, facing little competition in the local DA market.[25]

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[22] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order, 11 FCC Rcd 19392 (1996) vacated in part, People of State of California v. FCC, 124 F.3d 934 (8th Cir. 1997) rev. AT&T Corp v. Iowa Utilities Board, 119 S. Ct. 721 (Jan. 25, 1999).

[23] Id.; see also fn. 36 citing to the House Conference Report 104-458.

[24] F&S Wireline Rpt at 38.

[25] Id. at 39

Frost & Sullivan only find competition from the Big 3 IXCs, AT&T, Worldcom and Sprint, in the national wireline DA market i.e. dialing around 411 to reach the Big 3 for access to customer telephone numbers.[26] However, Frost & Sullivan further find that these and other IXCs in the second tier will become hamstrung on the national level because of their lack of access to 1+411 numbers. AT&T and WorldCom, for example, offer national DA services to compete with the RBOCs within their respective franchise territories and/or the RBOC's national DA services using 1010 dialing. Frost & Sullivan point out, however, that "[t]he majority of national directory assistance users are not aware of the one source single number products offered by AT&T and Worldcom. Many users still use 1+411 or 1+NPA-555-1212 to find national listings."[27] Moreover, as Frost & Sullivan conclude, once the RBOCs receive 271 authority and pursue a one source single number for national directory service that does not require the user to know more than the name and the city of a listing for seamless search completion, large RBOCs such as SBC and Verizon will be able "to prevent AT&T and WorldCom from stealing revenues from them."[28]

Even now Frost & Sullivan describes SBC as the leader in national directory searches due to its operational competitive advantage of using 411 in its franchise territories in conjunction with its brand name for national searches. Id. at 50. As Frost & Sullivan forecast, the ability of IXC's and others to utilize 1+NPA+555-1212 dialing

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[26] Ibid.

[27] Id. at 45.

[28] Ibid. As Frost & Sullivan point out, the large IXCs, such as Worldcom and AT&T will only be able to counter RBOC entry on the national level with access to 1+411 calling. In the meantime, as the RBOCs attain 271 authority they will eat away at the large IXCs national market revenue share while maintaining their local market revenue. Id. at 6.

"will become an outdated and irrelevant product," "if the remaining ILECs and CLECs can provide single NDA products for the search requests."[29]

> This should increase NDA [National DA] because ILEC subscribers now have an easier way to access national listings (1+411) and single number directory assistance products will increase overall demand for both local and national searches." The result is a blurring of revenues in both market segments. RBOCs particularly those with interLATA capability are eating away at the IXC's dominant [national] market share and IXC's using true single number products, are beginning to become a minor factor in the local directory assistance market.[30]

Frost & Sullivan further notes that the market relegates the CLECs and other independent toll service providers, such as Metro One, to the third tier of the competitive market.[31] Obviously, these carriers lack not only the brand names of the RBOCs and the IXC Big 3, a serious economic barrier, but they suffer the serious operational barrier that they do not have access to 411 or 555-1212 as the access code for dialing. Moreover, as Metro One has previously advised the Commission, despite the fact that it has two 555 numbers assigned it by NANPA, ILECs will not activate these numbers for DA use by Metro One. NPRM at para. 48.

B. Wireless Carrier Control of the Wireless DA Market

The wireline RBOCs face no serious economic threat from any market sector except the wireless carrier sector. As Frost & Sullivan find,

> Wireless service will create a migration of users from wireline service. Wireless directory assistance is less expensive, often free, and many times includes call completion service at better rates than what wireline providers can offer."[32]

[29] Id. at 71. Indeed, SBC and other RBOCs also monopolize 1+NPA+555-1212 for intraLATA toll dialing as well.
[30] Id. at 11-12.
[31] F&S Wireline Rpt at 39.
[32] F&S Wireline Rpt at 5. Most wireline carriers offer call completion for no additional charge with some notable exceptions such as SBC, and Qwest in certain instances. Id. at 41, 56 & 82.

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> The biggest factor [for ILECs] in wavering customer loyalty is wireless communication. Wireless service provides end users with another directory assistance alternative. The alternative, however, is as reliable as wireline service. It is also priced comparable to wireline service, and is more convenient for people to use, as they do not have to be stationary to use the service. They may conduct a directory search from any location within their calling area.[33]

However, this wireless competition does not harm the RBOCs because it is their wireless affiliates, which have access to the up-to-date listings furnished by their wireline affiliates, that are benefiting from this migration and some of these carriers, SBC and Bell South, use the same operators for both wireline and wireless DA operations

> Additionally, wireless database listings are as accurate as wireline listings.[34] This is because many of the wireline directory assistance providers also provide wireless directory assistance as part of their wireless segment offering. Verizon, Sprint and SBC/Bell South have very successful wireless business segments and offer equally high directory assistance service levels to both groups of customers.[35]

Qwest also takes full advantage of its wireline/wireless service capability in this regard so as to offer its DA service across wireline and wireless markets along with additional services it offers. See Attachment 3, supra. Metro One, in contrast, has been denied access to Qwest's wireless markets for its DA toll telephone service.

C. Significant Demand Exists And Will Continue To Exist For Wireline DA, Wireless DA and EDA Services.

As stated earlier, the wireless growth rate for DA far exceeds wireline growth and shows a compounded annual growth rate of 12.1% for wireless call volume starting in

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[33] Id. at 29.

[34] The ILEC dominance in the possession of an accurate DA database spills over to its wireless affiliates, giving it a serious competitive advantage over large IXCs such as AT&T whose inaccuracy rate is as high as 34% for its "00 info" product. F&S Wireless Rpt At 19.

1998 and projected through 2007, with over a 1.67 billion wireless DA phone calls forecasted for 2002, alone.[36] Along side of this, Frost & Sullivan forecast 4.1 billion wireline DA calls in 2002 with this number slowly decreasing thereafter through 2007, but remaining above 3.2 billion calls.[37] However, the wireless DA market remains the beneficiary of wireline DA decreasing volumes effectively picking up any losses that the wireline market gives up.[38] Meanwhile, the enhanced DA market is expected to explode going from $0.16 billion presently to $4.1 billion by 2007.[39] The driver behind this market rise is projected wireless use which includes enhanced information services such as concierge services, traffic and weather information, stock and financial information, movie listings, entertainment calendars, driving directions and sports information.[40]

D. Operational And Regulatory Constraints Must Be Removed To Make The Entire DA Market Competitive.

The facts show that the RBOCs dominate the wireline DA market because they control the 411 access number, and the most accurate DA listings in their franchised territories as the result of their monopoly position. In turn, each wireless carrier mimics the RBOC dominance both for accurate listings and 411 access dialing control in their licensed territories (in fact, they are one and the same as noted at p. 10, supra). The wireline DA market dominance of the RBOCs is slightly diminished by the national directory services of the Big 3 IXCs with brand name recognition, but even this attempt at competition remains decidedly inferior in light of the denial or access of 411 dialing

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[35] Id. at 52. Sprint serves as an incumbent local exchange carrier in a number of states.
[36] F&S Wireless Rpt at 16.
[37] F&S Wireline Rpt at 59.
[38] Compare F&S Wireless Rpt at 16 with F&S Wireline Rpt at 61.
[39] F&S 2002 Enhanced Directory Assistance Report, Executive Summary.
[40] Ibid.

and the more accurate nature of the RBOC DA information. Moreover, as the RBOCs have phased in 1+411 national dialing they are eating away at the Big 3 IXC market share and expected to take further national DA revenues as 271 authority is achieved in their respective state franchise territories. It goes without saying that smaller DA toll carriers such as Metro One are even further marginalized on the national level by the RBOC 411 monopoly dialing pattern and its ongoing expansion at that level.

In contrast, no competitive mitigation affects the dominant position of wireless carriers for wireless DA since they can and do monopolize 411 at the wireless level and deny their respective customers access to any DA toll provider of choice except the one the wireless carriers may provide themselves. In other words, the wireless carriers operate in a closed system that does not promote competition and its attendant benefits of more innovative products and services. In the meantime RBOCs and their wireless affiliates never lose market share because they control most of the access to both the wireless and wireline DA market.

Thus, without even analyzing economic constraints that might inhibit entry into the DA market (such as the expense of call centers and building a brand name that will attract customers), the operational and regulatory competitive barriers of (i) lack of access to 411 dialing in both the wireline and wireless market and (ii) the wireless carriers' refusal to make a choice of DA toll provider available to their customers show the unbalanced nature of the playing field that the Commission must remedy. Moreover, although there may be multiple wholesale providers of DA service attempting to offer their services to carriers to provide DA, the retail DA market is entirely different. This is because it is characterized by these operational restraints on DA toll service providers

arising from the denial of access to the end-user retail customers of ILECs and wireless carriers, and the regulatory impediments to competition that arise from the lack of access equal access dialing patterns for competitive DA toll providers. Thus, the competitive landscape for the wholesale DA market is substantially different from the retail market. See also para. 13 of the NPRM.

Given these circumstances, the Commission must find that the denial of 411 access to competitive toll provides is a per se unreasonable and discriminatory constraint on competition that violates Sections 251, 201 and 202 of the Act.[41] Further, the Commission must also find that wireless carriers refusal to make a choice of DA toll service providers available to their customers is not in the public interest and that under the requirements of Section 332 (c)(8), the Commission must establish the alternate DA access dialing patterns and presubscription advocated by Metro One.

7. Immediate Implementation of 1010CIC Access Codes And 411CIC And 555CIC For Access to Competitive DA Toll Providers Should Be Ordered. (NPRM Section III. D.1-5)

A. There Are No Technical or Cost Barriers To Implementation of 101-ACIC-0 411-ACIC and 555- XXXX Access Dialing Patterns For Competitive DA Toll Providers

Attachment 4 hereto consists of three diagrams that describe the implementation of 101-ACIC-X ("1010"), 411-ACIC (a carrier identification code) and 555-XXXX, 101-ACIC-O dialing as alternate access dialing patterns that should be made available for

[41] The Commission should also continue its prohibition of ILECs providing EDA until the 411 access number is shared.

customer access to alternative DA toll providers for both wireline and wireless use.[42] As the diagrams show, to implement these dialing patterns only requires that local exchange companies and the wireless carriers program a switch translation that recognizes the noted access numbers and then provides routing instructions to the competitive DA toll services provider switch which, in turn, terminates or further routes the call. Other than the programming of the switch translation, the only other facilities needed by the alternative DA toll provider would be trunks that connect it to wireless and local exchange company switches, as the diagrams depict, so as to route and complete calls. In terms of cost, the alternative DA toll provider would pay the cost for such trunks and connection with the LECs and would also bear the cost of programming the switch translation. The latter cost should be minimal since the switch translation is no different than switch translations currently in use for 1010 dialing.

Attachment 5 hereto contains two further diagrams that depict a further alternative use of the 1010, 411-ACIC and 555-XXXX dialing patterns. The first two diagrams depict the use of the existing national dip into the existing toll free (800, 888) database for a wireline or wireless call whereby the three alternative dialing patterns would, when their translations were programmed into the respective carrier switches, be recognized as a command to dip [look up and select routing instructions] from the existing national toll free database as if they were 800 or 888 numbers. In turn, the national database would provide routing instructions so that the calls would be routed to the alternative DA toll provider switch for completion or further routing.

[42] Three of the diagrams are devoted to the wireless configuration and three of the diagrams are devoted to the wireline configuration.

The second set of diagrams in Attachment 5 contemplate the same architecture except, instead of a dip into the national toll free database, each carrier could maintain its own route command dip table external to its switch that would have the programmed translation for each DA toll services provider as well as any other translations a carrier would wish to program such as 911, 611, 711. When a call is made, the carrier switch would look up the translation in its route command database and then route the call to the alternative DA toll provider for completion or further routing.

The advantage of this system to the carrier is that the alternative route translations could be off-loaded from a carrier's switch to the route command database, thereby freeing up space on the switch. To be clear, Metro One is not advocating that either ILECs or wireless carriers purchase and install separate route command databases to provide alternative DA access as a result of a commission order in this proceeding. Rather, use of this external database would arise only when the LEC or wireless carrier needed additional capacity on a switch for any translations. Further, as Metro One has already proposed, only the 1010 translation would be required immediately for wireless carrier implementation.

As in the case of the toll free database, the cost of any required trunking between a competitive DA toll provider and the LEC or wireless carrier switch would be borne by the competitive DA toll provider. The cost of programming the translation into the route command dip table or toll free database would also be borne by the competitive DA toll provider. Such translations are no different than 800 or 888 translations and can be done

with minimum cost. The cost of the route command data table, itself, would be borne by the carrier, as is the case today.[43]

B. Using The Existing LIDB Database or External Route Command Databases Does Not Require An Administrator

Using either the 800/888 existing database or external route command databases does not require a new administrator. Likewise, the LIDB database would not require modification in the case of the 800/888 database because the proposed dialing patterns would be translated into an 800/888 number for routing purposes.

C. Using CIC or CAC Numbers With The Three Proposed Alternate DA Access Numbers Benefits Competition & Innovation Without Excessive Cost

Using the existing CIC or CAC numbers facilitates DA dialing and competition because these codes are already assigned to carriers and used for routing instructions and billing. NPRM at para 50 & fn.190. Likewise, the use of 555 numbers is already established as a means of identifying NPA and central office information and such numbers have already been assigned to carriers such as Metro One, but ILECs have refused to implement them for competitive DA provision.

The cost/benefit of using these existing systems is obvious. They already exist and can be used with the implementation of the noted switch translations. In turn, DA toll providers can then provide traditional DA and EDA services in an innovative fashion. Once access parity is provided, the marketplace will determine which DA toll providers will survive competitively based on their ability to market these services in competition with existing ILEC and wireless carrier offerings. However, absent regulatory action to

[43] This is consistent with cost recovery principles utilized for number portability -- all carrier specific costs are borne by the carrier incurring the cost. See Numbering Resource Optimization Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000) at paras. 207-209.

require implementation of these alternative dialing patterns, the ILECs will not allow such competition and attendant innovations.

8. AIN Presubscription Or Voice Recognition Presubscription Should Be Considered for Local Exchange Companies and Wireless Carriers. (NPRM Section III.C)

A. AIN Presubscription

Metro One believes that Telegate has sufficiently described how network AIN presubscription should work and the benefits that it has fostered in Europe. NPRM at paras. 15-16, 22-27. In fact, the AIN SS7 based network architecture is similar in its operation to the external command databases proposed by Metro One for the 411, 555 and 1010 alternate access dialing patterns. See Metro One Attachment 7 hereto; see also NPRM at fn. 96.

Telegate also forecasted a six-nine month implementation period with which Metro One agrees. NPRM at para. 27. The format for presubscription balloting has already been tentatively proposed for selection of wireless interLATA toll carriers by the Commission in its now terminated Notice of Proposed Rulemaking and Notice of Inquiry Into the Equal Access and Interconnection to Obligations Pertaining to Commercial Mobile Radio Services ("CMRS Equal Access Rulemaking"), 2 CR 2207 (1996) at paras.88-92.[44] There, the Commission tentatively agreed with the Bell Atlantic proposal to send a ballot to consumers that would list possible toll carriers in a nondiscriminatory fashion, periodically rotating the list to allow all carriers an equal chance of being listed at the top of the ballot. After the time period for receipt of the ballots, the customers not selecting a toll provider would be allocated among the toll providers based on the proportionate percentage of these customers selecting DA toll providers.

[44] That inquiry was terminated after passage of the 1996 Telecommunications Act with the addition of Section 332 (c)(8) to the Act. In the Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, 2 CR 977 (1996).

Metro One agrees with the Bell Atlantic proposal and believes that it is the easiest to implement for the selection of a DA toll provider.[45] As proposed by the CMRS Equal Access Rulemaking, the cost of such balloting could be recovered via a small surcharge from end-users or DA toll providers. Id. at para. 95. If the latter surcharge were imposed, it should be imposed proportionate to the amount of DA toll customers that the DA toll provider actually acquires to make it consistent with the balloting rules.

B. Voice Recognition Presubscription

Metro One also proposes voice recognition presubscription as an alternative to the traditional presubscription balloting and allocation procedure. With voice recognition presubscription, a call to 411 is recognized by the LEC or wireline carrier switch translation table as a command to route the call to a carriers voice recognition unit ("VRU"). In turn, the VRU prompts the caller with a recording to state the name of the toll provider it wishes to access. The caller states the name of the DA toll provider and the VRUidentifies the terminating trunk group associated with that DA toll provider, sends a routing instruction to the originating carrier which then connects the caller to the requested DA toll provider. In the event that the caller does not state the DA toll provider's name and remains on the line, the caller would be defaulted to the LEC or wireless carrier DA toll provider.

There are a number of advantages to this form of presubscription. First, it allows the caller to pick its DA toll carrier of choice for each call, thereby allowing the caller to decide which DA toll provider may provide the best information being sought. For example, beyond choosing the DA toll provider that the caller believes has the most inclusive listings for a selected catagory, the caller can now select the EDA toll provider of its choice that has best concierge services or array of sports or news information.

[45] Worldcom, Inc's. May 30, 2000 Reply Commments in CC Docket Nos. 99-273 & 98-67 also describe a similar workable process used during the equal access conversion process developed in 1985. Id. at 5-6

A second attractive feature of voice recognition presubscription is that VRU systems are already in place by the major ILECs such as SBC and some wireless carriers. If 411 is presently dialed in SBC territories, such as Pacific Bell in California, the caller does not get a live operator but is voice prompted to state the requested person called and location of that person. A live operator only comes on the line in the event of difficulty with the search request. The same process would hold true for VRU presubscription and the ILEC or wireless carrier as the default carrier, would provide the live operator as the quid pro quo for being the default carrier.

Finally, voice recognition presubscription obviously avoids the process and cost of balloting and reballoting.

9. The ILECs and Wireless Providers Should Be Required To Offer Billing & Collection Services Because DA Is a Basic Service and Billing & Collection Services Are Essential To Provision of DA Services. (NPRM Section III C.3)

As stated previously herein, directory assistance has already been classified as a basic service or adjunct to basic service.[46] Thus, the Commission has Title II jurisdiction over billing and collection for directory assistance.[47] This is true for even an adjunct basic service.[48] Even if the Commission did not have jurisdiction over directory assistance, it still could assert jurisdiction under Title I of the Act. BNA Order, supra at

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[46] See page 5, supra; The Use of N11 Codes and Other Abbreviated Dialing Arrangements, 6 CR 695, 702 (1997).

[47] See e.g. Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information For Joint Use Calling Cards ("BNA Order"), 8 FCC Rcd 4478, paras. 11-12 (1993) recon. 8 FCC Rcd 8798.

[48] Beehive Telephone Company v. Bell Operating Companies, 78 RR2d 1376, 1380 (1995) at para.16 (". . . the Commission has previously rejected the theory advanced by Beehive that only the transmission portion of a communications service may be considered common carriage by holding that a service that is incidental to a common carrier transmission service is also common carriage. (footnote omitted).")

para. 11.[49] "Such an assertion of jurisdiction must be accompanied by a record finding that such regulation would `be directed at protecting or promoting a statutory purpose.'"[50] Here such a finding could easily be made since the Commission has determined that a statutory purpose of the Act is to promote competition in the delivery of telecommunications services and, in the process, remove regulatory and operational constraints thereto.[51] Finally, as to wireless carriers, the Commission has firmly stated that wireless carriers are subject to the reasonableness and nondiscrimination requirements of Sections 201 and 202 of the Act and that those obligations are not diminished as they relate to the billing practices of wireless carriers.[52]

Under its jurisdictional authority, the Commission must require the ILECs and wireless providers to bill and collect for DA toll providers under reasonable, cost-based rates, terms and conditions. The Commission must make sure that this billing and collecting requirement apply to traditional and enhanced DA because ILECs will not recognize any form of EDA for billing and collection purposes. In other words, ILECs will presently only bill for a DA call where the DA toll provider only provides a requested phone number and completes the call. Thus, the Commission should order an end to this unsupportable practice

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[49] It should be noted that even when the Commission has determined that it does not have Title II authority over billing and collection for IXCs by LECs and declined to exert Title I jurisdiction in this regard, it did so with the caveat that LECs would provide the needed billing information on a reasonable basis and, if that did not occur, the Commission indicated that it would revisit the question and assert Title I and/or Title II jurisdiction. BNA Order at para.19 & 20.

[50] In the Matter of Detariffing Billing and Collection Services, 59 RR2d 1007, 1019-20 (1986) at para. 37.

[51] See footnotes 21-23, supra.

[52] In the Matter of Truth-in-Billing and Billing Format, 14 FCC Rcd 7492 (1999) at para. 19 recon. FCC 00-111, released March 29, 2000.

Billing and collecting for toll services is already done for IXCs by LECs. DA toll service billing and collection would work in the same manner. Once a DA call is originated and routed by the LEC or the wireless carrier to the DA toll provider, the DA toll provider will capture the calling information, rate it for billing and then send it back to the originating carrier for billing in an industry standard format. In turn, the LEC or wireless carrier, as the case may be, then will bill, collect and remit the funds less reasonable charges for the billing to the DA toll provider. Today, wireless carrier refuse to bill for anyone but themselves. Hence, the Commission must order this billing to take place.

The Commission should also establish that the billing and collecting procedures by LECs and wireless carriers for DA toll providers must be cost-based and comply with the reasonableness and nondiscrimination requirements of the Act. In this regard, independent DA toll providers should not treated any differently than LEC or wireless carrier billing and collection divisions or affiliates to ensure fair pricing.

10. Existing Consumer Protection Rules That Presently Exist for InterLata and IntraLata Calling Will Apply To The Provision of DA Toll Service With Variations Based On Whether Presubscription Is Implemented. (NPRM Section III C.4)

A. Existing Slamming and Cramming Rules Would Apply to Presubscribed DA Toll Providers.

Because DA toll providers are common carriers and already subject to the Commission's rules and regulations, there is no need to develop further consumer protection rules if they are preselected as the DA toll provider of choice by consumers. By virtue of their status as carriers, the slamming and cramming rules would apply to them. If voice recognition presubscription is adopted, customers will automatically avoid any chance of slamming or cramming since they will choose their DA toll provider each time they dial.[53] However, such rules have no applicability unless and until

[53] The only possible slamming that could occur in this instance would be if the ILEC or

presubscription is implemented since it is not possible to slam or cram a customer that uses an alternate dialing pattern to access a DA toll provider on a casual calling basis.

B. Truth-In-Billing Requirements Will Apply To DA Toll Provider Billing

The Commission's Truth-in-Billing requirements would also apply DA toll providers. See 47 CFR 64.2401. As a result, Metro One agrees that the DA toll provider's name and 800 number should be required to be placed on a bill or that portion of the LEC or wireless carrier bill devoted to the DA toll provider. Further, Metro One would agree to the placing of inserts in the billing LEC and wireless carrier bills, explaining the availability of DA toll service and charges and conditions pertinent thereto.

C. 411 Presubscription Does Not Raise Any Pay-Per-Call 900 Regulation Issues In Connection With The Delivery of Enhanced DA Services.

Contrary to BellSouth's assertions[54] 411 presubscription does not raise any pay-per-call 900 regulation issues.[55] As the NPRM itself notes, Section 228 of the Act does not apply to "directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service." 47 USC 228(i)(2);see also 47 CFR Section 64.1501(a)(4). The very language used by the Act and the Commission's regulations says precisely the opposite of what BellSouth asserts and, therefore, BellSouth's comments should be ignored.

11. The Commission Should Require The States To Adhere To The Requirements It Adopts In Its Order. (NPRM Section III. D.6)

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cellular carrier did not connect the customer to the DA toll provider of its choice and, instead, nefariously routed the customer to the LEC or cellular carrier DA toll provider.

[54] (NPRM at para. 37)

[55] BellSouth has not made these same illusory claims regarding alternate forms of accessing DA toll providers other than presubscription.

Because the actions taken by this Commission would arise from the Commission's plenary authority over numbering matters, the Commission should make clear in its order that states cannot take actions that violate or inhibit the matters ruled upon. Nonetheless, absent presubscription, these would appear to be little change in any state regulatory issues by Commission implementation of the proposed alternate access dialing configurations, because the existing 411 monopoly would remain intact and the access dialing patterns will be through casual calling. Likewise, if voice recognition presubscription is implemented the same state of affairs will hold true.

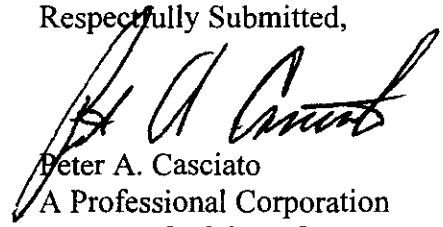
If, however, traditional presubscription is implemented via balloting, then as noted in Sections 9A & 9B, above, DA toll carriers will be subject to existing slamming, cramming and truth-in-billing requirements. Some states require that the ILECs provide free DA calling allowances. This requirement could remain unchanged but need not be imposed on competitive DA toll providers since they are nondominant carriers. By definition, these nondominant carriers have no market power and must meet competitive pricing or not survive. As a result, they may be required to meet or exceed the free call allowances of the ILECs, without regulatory intervention, as a competitive necessity as part of the price reductions and innovation that a competitive market will produce.

12.Conclusion

To assure telephone subscriber access to the DA telephone toll service provider of their choice on a more level playing field, the Commission should order theimmediate implementation of 1010 dialing for access to competitive DA toll service providers in both the wireline and wireless market. Thereafter, the Commission should order two other alternate access dialing patterns for the local exchange companies: (i) 411 plus four

digit CIC codes and (ii) 555 -XXXX. Meanwhile, the Commission should consider alternate forms of presubscription either (i) AIN-based 411 dialing or (ii) voice recognition presubscription. with presubscription. These actions are in the public interest, will lead to a competitive marketplace, innovative DA offerings and will promote telephone subscriber choice.

Respectfully Submitted,



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