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 N11 Codes and Other Abbreviated Dialing Arrangements	)	CC Docket No. 92-105
	)	
Administration of the North American Numbering Plan	)	CC Docket No. 92-237
	)	

To: The Commission

REPLY COMMENTS OF CINGULAR WIRELESS LLC

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Summary

In the *Notice of Proposed Rulemaking* in this proceeding, the Commission seeks comment on whether presubscription to directory assistance (DA) service is an idea whose time has come. The record firmly supports that the answer to this question is an emphatic "no." Instead, the Commission should refrain from any further regulation of the DA market.

As an initial matter, there is insufficient statutory support for the Commission mandating the alternative DA schemes proposed in this proceeding. The Act does not require all carriers, particularly wireless carriers, to subsidize a competitive DA market. In addition, the record clearly shows that the DA market is already open and competitive. In particular, the wireless DA market is flourishing, unfettered by regulatory intervention. Further, implementation of alternative DA plans is both technically infeasible and financially burdensome. Some commenters encourage the Commission to mandate that carriers undertake enormous network revisions, including billing and collection obligations, in the hopes of creating opportunities for very few competitors. These plans should be rejected outright, as they provide no meaningful benefit to competition in the DA market.

At the very core of this proceeding is the simple fact that consumers—the intended beneficiaries of competitive marketplaces—will be harmed by the alternative DA proposals. There is no evidence of consumer demand for DA presubscription, and presubscription or the elimination of "411" dialing for DA would harm the very individuals who use these services the most.

Table of Contents

SUMMARY II

TABLE OF CONTENTS III

I. INTRODUCTION AND SUMMARY 1

II. THE COMMISSION SHOULD NOT ADOPT TELEGATE'S PROPOSAL TO REQUIRE PRESUBSCRIPTION TO DA SERVICES 2

- A. The Commission Lacks the Authority To Require Carriers to Implement 411 Presubscription 3
- B. The Directory Assistance Market is Competitive and Does Not Require Further Regulation 6
- C. The Wireless Directory Assistance Market is Fully Open To Competition 7

III. FORCED PRESUBSCRIPTION IS NOT TECHNICALLY FEASIBLE FOR WIRELESS CARRIERS 9

IV. FORCED PRESUBSCRIPTION DOES NOT ENCOURAGE AN EFFICIENT MARKETPLACE 12

V. THERE IS NO LEGAL OR POLICY BASIS FOR THE PROPOSED BILLING AND COLLECTION OBLIGATIONS 13

VI. THE PROPOSALS WILL HARM CONSUMERS 14

- A. Presubscription Will Bring No Consumer Benefit 15
- B. Eliminating 411 Dialing for DA Would Harm Consumers 16

CONCLUSION 17

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I. Introduction and Summary

Cingular Wireless LLC ("Cingular") hereby replies to the comments submitted in response to the *Notice of Proposed Rulemaking* in the above-referenced proceeding.[1] In the *Notice of Proposed Rulemaking* the Commission invited parties to comment on methods of "promoting competition and choice in the retail directory assistance (DA) market, in accordance with the pro-competitive, de-regulatory national policy framework set forth in the Telecommunications Act of 1996."[2] In particular, the Commission requested comments on Telegate Inc.'s ("Telegate's") proposal that the Commission require carriers to implement

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[1] *Provision of Directory Listing Information Under the Communications Act of 1934, As Amended,* FCC 01-384, *Notice of Proposed Rulemaking,* 17 FCC Rcd. 1164 (rel. Jan. 9, 2002) ("*NPRM*").

[2] 17 FCC Rcd. at 1165.

presubscription to 411 services.[3] As a wireless carrier that provides directory assistance services to its customers, Cingular has a strong interest in this proceeding.

As discussed more fully below, the Commission should not impose additional regulations upon the DA marketplace. The Commission has already concluded that the DA market is competitive and, yet, the Commission is now being asked to require certain participants in the competitive DA marketplace to subsidize the entry strategies of other participants. Requiring carriers, particularly wireless carriers, to implement presubscription will create massive technological and financial burdens, with no meaningful benefit to competition or consumers. The record in this proceeding shows strong opposition to any Commission action. Consequently, the Commission should refrain from any further regulation of the DA market and, in particular, from requiring DA presubscription.

II. The Commission Should Not Adopt Telegate's Proposal to Require Presubscription to DA Services

The record in this proceeding strongly supports the conclusion that the directory assistance market is competitive and does not require further regulation.[4] The Commission has long recognized the need to avoid regulation in competitive markets, such as the wireless

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[3] 17 FCC Rcd. at 1166; *see also* Telegate *ex parte* (filed March 10, 2000) ("Telegate Proposal").

[4] Sprint Comments at 2; Verizon Comments at 2; Independent Telephone & Telecommunications Alliance at 2; InfoNXX Comments at 1; National Telecommunications Cooperative Association at 1-2; Qwest Comments at 2; Communications Workers of America Comments at 3; SBC Comments at 3, 21-23; *see also* BellSouth Comments at Attachment 1, Taylor and Ware, *Competition and Regulation for Directory Assistance Services*, April 1, 2002 ("NERA Study") at 10-48.

market.[5] Undoubtedly, the competitive DA market—particularly the wireless DA market—does not warrant such regulatory intervention.

A. The Commission Lacks the Authority To Require Carriers to Implement 411 Presubscription

As an initial matter, Cingular supports commenters' conclusions that the Commission does not have the authority to mandate presubscription of 411.[6] Some commenters argue that the Commission has authority to implement such plans under sections 201(b), 202(a), 251(e), and 251(b)(3).[7] However, none of these statutory provisions provides the Commission with sufficient authority to mandate either presubscription or an alternative DA plan.

Telegate improperly argues that the Commission has authority to mandate presubscription under sections 201(b), 202(a) and 251(e).[8] Sections 201(b) and 202(a) fail to provide the Commission sufficient authority to mandate presubscription because DA is not "interstate or foreign communications by wire or radio," and therefore does not fall under the purview of these provisions.[9] While the Commission properly recognizes that its section 251(e) "authority over numbering administration extends to the assignment of all N11 numbering codes including 411," this authority does not reach to ordering *presubscription* to 411.[10] Rather, the

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[5] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *First Report and Order*, 11 FCC Rcd. 15499, 15995-96 (1996) ("*Local Competition Order*"); *see also* Sprint Comments at 9.

[6] BellSouth Comments at 5; Verizon Comments at 4.

[7] InfoNXX Comments at 24-27; Metro One Comments at 7-11; Premiere Network Services, Inc. Comments at 6-15; Telegate Comments at 23-26.

[8] Telegate Comments at 23.

[9] BellSouth Comments at 8; *see also* 47 U.S.C. §§ 201(a)-(b), 202(a).

[10] *NPRM*, 17 FCC Rcd. at 1170.

authority under section 251(e) is to designate the N11 codes for a particular purpose—such as "411" for information—and does not extend to the dialing parity principles of section 251(b)(3).[11]

Under Section 251(b)(3), all local exchange carriers are required "to provide dialing parity to competing providers of *telephone exchange service* and *telephone toll service*."[12] This provision will not support a mandate to provide presubscription to DA for a number of reasons.

First, the definition of "dialing parity" is:

> that a person that is not an affiliate of a local exchange carrier is able to provide *telecommunications services* in such a manner that customers have the ability to route automatically, without the use of any access code, their *telecommunications* to the *telecommunications services provider* of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).[13]

Thus, the dialing parity requirement is limited to the provision of a telecommunications service by a telecommunications service provider. However, DA does not qualify as a "telecommunications service," because, as SBC explains, it is not the offering of "telecommunications" to the public for a fee.[14] Rather, it is the offering of a service through the transmission of telecommunications.

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[11] BellSouth Comments at 9; SBC Comments at 6. In this regard, the Commission has never designated the dialing code 411 for DA services. *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, FCC 00-256, *Third Report and Order on Reconsideration*, 15 FCC Rcd. 16753, 16755 n. 4 (2000).

[12] 47 U.S.C. § 251(b)(3).

[13] 47 U.S.C. § 153(15) (*emphasis added).*

[14] SBC Comments at 7.

Second, the dialing parity requirement only extends to "competing providers of telephone exchange service and telephone toll service."[15] The Commission has already recognized that many DA providers do not fit this definition.[16] Indeed, given that DA providers do not fall within the ambit of the dialing parity provisions except to the extent that they also provide other services, it would be inconsistent with the statute for the Commission to use this provision to benefit them as a class.

Further, section 251(b)(3) places the obligation to provide dialing parity only upon "all local exchange carriers." Wireless carriers, like Cingular, are specifically excluded from the Act's definition of "local exchange carrier."[17] Thus, the Commission cannot use the dialing parity requirement as support for requiring wireless carriers to implement presubscription to DA.

Finally, as a general matter, section 251 does not support a Commission effort to promote competition in the retail DA market. Cincinnati Bell clearly explains that "Congress did not anticipate the development of DA as a stand-alone telecommunications service market."[18] Verizon supports the notion that Congress did not mandate the Commission to promote competition in the retail DA market, noting that "there is nothing to suggest that Congress was interested in stimulating non-carrier participation in this particular piece of the industry."[19]

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[15] BellSouth Comments at 6.

[16] *Provision of Directory Listing Information Under the Telecommunications Act of 1934, As Amended,* FCC 01-27, *First Report and Order*, 16 FCC Rcd. 2736, 2744-2747 (2001) ("*Directory Listing Order*") (holding "if a competing directory assistance provider does not complete the call either through its own facilities or through resale and can impose a separate charge for such service. . . the competing directory assistance provider is not providing telephone exchange service.").

[17] *See* 47 U.S.C. § 153(26).

[18] Cincinnati Bell Comments at 3.

[19] Verizon Comments at 7.

Rather, the language and structure of the statute indicate that Congress intended to ensure that *competing LECs* are not hobbled in their ability to compete by an inability of their customers to access DA offerings of equivalent quality to the ILECs'.[20]

B. The Directory Assistance Market is Competitive and Does Not Require Further Regulation

In the *UNE Remand Order*, the Commission conclusively recognized the existence of a competitive DA market.[21] As a result, the Commission in reaching this determination, removed DA from the list of existing UNEs.[22] While it may be that the Commission's analysis in the *UNE Remand Order* pertained only to the *wholesale* DA market,[23] as noted in the previous section, the statute does not support costly regulatory requirements to create a *retail* DA market. Nevertheless, Cingular supports Sprint's conclusion that competition in the wholesale market "has translated into competition in the retail market."[24]

The Commission as well should recognize that competition is flourishing in the retail DA market. Several commenters cite to a marked decline in ILEC market share in the DA industry as proof of competition.[25] Consumers can access DA services not only from incumbent local

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[20] 47 U.S.C. § 251(b)(3).

[21] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, 15 FCC Rcd. 3696, 3893-3894(1999) *("UNE Remand Order")* (holding that "Competition in the provision of operator services and directory assistance has existed since divestiture.").

[22] *Id.* at 3903-3904.

[23] *NPRM*, 17 FCC Rcd. at 1171-1172.

[24] Sprint Comments at 4; *see also* BellSouth Comments at 9; NERA Study at 11-12.

[25] BellSouth Comments at 10; Sprint Comments at 4; Verizon Comments at 2.

exchange providers ("ILECs"), but also from wireless carriers such as Cingular, interexchange carriers ("IXCs"), competitive local exchange carriers ("CLECs"), wholesale DA providers, Internet Service Providers and online websites, CD ROMs and published directories.[26]

The Internet, published directories, and toll-free numbers all offer consumers the ability to access DA outside of the conventional 411 methods. The capabilities specific to these alternative forms of information searches, one commenter notes, "make them, in many ways, superior to conventional telephone DA services."[27] Cingular agrees that, based on these alternative DA applications, "there is no need for 411 presubscription or any other mandated alternative dialing arrangement because existing market forces will continue to promote competition in the DA market."[28]

C. The Wireless Directory Assistance Market is Fully Open To Competition

The Commission should recognize that the scope of this proceeding does not include wireless carriers.[29] As noted above, wireless carriers are not LECs and thus are not subject to section 251(b) dialing party requirements.[30] In fact, Telegate clearly states that the purpose of its presubscription plan is to "bring competition to the U.S. market for *wireline* DA services."[31]

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[26] BellSouth Comments at 10; Communications Workers of America Comments at 3; SBC Comments at 3; Cincinnati Bell Comments at 2.

[27] Verizon Comments at 12; *see also* BellSouth Comments at 16.

[28] BellSouth Comments at 2.

[29] Sprint Comments at 8-9.

[30] *See supra* Section II.A.

[31] Telegate Comments at 18 (*emphasis added).*

Moreover, there is strong precedent for a deregulatory approach in the highly competitive wireless marketplace. Congress sanctioned a deregulatory approach in the wireless arena by adopting section 332(c), which, among other things, excludes CMRS carriers from equal access obligations for telephone toll service.[32] Surely, if CMRS carriers are not required to provide equal access for toll providers – a much more well-established concept – it is difficult to argue that they should be required to provide equal access for DA providers. Moreover, the section 251(b) dialing parity obligations, on which the Commission and commenters heavily rely for legal support for the proposals in the *NPRM,* do not apply to CMRS carriers, as they are not LECs.[33]

InfoNXX properly notes that the analysis in this proceeding should only apply to wireline carriers because the wireless industry is already fully competitive, noting that wireless providers "have rewarded market innovators like InfoNXX that offer wireless customers consumer-friendly, enhanced DA services."[34] Nevertheless, Metro One argues that the "opportunity to compete is completely denied in the wireless market today."[35] Yet Metro One's Annual Report states that the company "primarily contract[s] with wireless carriers to provide [its] services to their subscribers" and shows that 95% of its revenue for 2001 were from its wireless customers.[36]

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[32] 47 U.S.C. § 332(c)(8).

[33] 47 U.S.C. § 251(b) (listing requirements for all local exchange carriers). *See* 17 FCC Rcd.. at 1168-1170 (focusing on section 251 as legal authority for the proposals in the *NPRM).* The Commission has held that CMRS carriers are not LECs. *Local Competition Order,* 11 FCC Rcd. at 15995-96.

[34] 17 FCC Rcd. at 1184; *see also* InfoNXX Comments at 4.

[35] Metro One Comments at ii.

[36] *See* 2001 10-K Annual Report of Metro One Telecommunications, Inc., Item 1, http://www.metroone.com/IR/index.html (visited April 22, 2002). Metro One cites the following

Indeed, the growth rate in the wireless DA market is cited by two commenters as 13.3%,[37] and is projected by one commentor to be growing at a rate of 10% per year.[38] Competition in the wireless market has resulted in increased innovation in DA offerings, such as no-charge call completion, concierge services, movie listings, stock indexes, weather and sports information, and more.[39]

Metro One argues that "most large wireless providers are affiliates of the ILECs, share their DA operations and absorb any loss of ILEC market share."[40] The majority of wireless carriers outsource their DA to the most competitive DA provider that offers the most services at the best price. As Qwest explains, a directory assistance provider is "chosen by the wireless carrier through a wholesale agreement and [the service] is packaged with the wireless provider's service offering to the retail customer."[41] There simply is no evidence of a need for regulation of DA in the highly competitive wireless market.

III. Forced Presubscription Is Not Technically Feasible for Wireless Carriers

A large number of regulatory mandates in recent years have stretched wireless providers' resources particularly thin. One commentor notes that the 411 presubscription proposal "would impose a significant economic burden on small and mid-sized carriers whose financial and human resources are already strained by existing regulatory requirements (*e.g.*, number pooling,

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revenue from wireless carriers: Sprint PCS-32%, AT&T Wireless Services-30%, Nextel Communications-23%, Cingular Wireless-7%, and Verizon Wireless-3%.

[37] Sprint Comments at 4; Communications Workers of America Comments at 4

[38] Verizon Comments at 11; *see also* NERA Study at 17-25.

[39] *See* Communications Workers of America Comments at 6; BellSouth Comments at 14.

[40] Metro One Comments at i.

[41] Qwest Comments at 7.

LNP, CALEA, etc.)."[42] This statement is especially true in the wireless context. Cingular, and other wireless carriers, are being expected to implement a number of regulatory initiatives, particularly in the area of public safety. Instead of focusing solely on these initiatives that the Commission has deemed necessary to the public good, Telegate is asking that the Commission require carriers to update advanced intelligent network ("AIN") technology and reprogram each switching facility.

Some commenters incorrectly argue that presubscription is technically feasible through existing AIN routing.[43] In support of its assertion that "it is now technologically feasible for consumers to choose one provider for local service and another for DA,"[44] Telegate claims that "both AIN and SS7 software are already deployed in the vast majority of central office switches."[45] In reality, the majority of wireline carriers admit that their networks are woefully insufficient to support presubscription.[46] Furthermore, AIN is specifically a wireline intelligent network ("IN") technology. IN capabilities are even less widely deployed in wireless networks today.

Presubscription adds call-routing complexity, which increases the chance of network failures. In order to support 411 presubscription, carriers would need to modify their

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[42] Cincinnati Bell Comments at 9.

[43] Telegate Comments at 26; WorldCom Comments at 2.

[44] Telegate Comments at 26.

[45] Telegate Comments at 20.

[46] AT&T Comments at 2; BellSouth Comments at 3; Cincinnati Bell Comments at 6; Sprint Comments at 5, 7; Verizon Comments at 19.

preordering, ordering, provisioning, and billing systems.[47] It is hard to determine whether there will be any negative impact on carrier's networks, or positive benefit to consumers, if the carriers are required to make these changes.

Telegate uses Europe as the model for presubscription in the United States,[48] but, as one commentor notes, it is "not at all clear that it is even technically feasible, since the proposal is not based on the realities of the United States telecommunications network."[49] Indeed, as one commentor concludes, the "Commission should not consider 411 presubscription or any other competitive model that is based on a European regulatory scheme."[50]

Even those that support directory assistance regulation cannot support Telegate's arguments of technical feasibility. Metro One is careful to explain that it does not go so far as to advocate "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."[51] And even InfoNXX, a proponent of replacing 411 with multiple "555" codes, concedes that presubscription "would impose significant technically and administrative burdens on LECs, competitive providers and consumers."[52] Such required upgrades would have a significant impact on the limited resources of wireless carriers.

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[47] BellSouth Comments at 25; *see also* Cincinnati Bell Comments at 6-8; SBC Comments at 27-39; Verizon Comments at 3.

[48] Telegate Comments at 4-18.

[49] SBC Comments at 28; *see also* BellSouth Comments at 2.

[50] BellSouth Comments at 20.

[51] Metro One Comments at 20.

[52] InfoNXX Comments at 27.

Illuminet claims that the existing Line Information Data Base ("LIDB") platform provides carriers with an efficient method of implementing presubscription.[53] Cingular agrees with commenters that argue that use of LIDB for this purpose is not achievable without significant modifications, at great cost to both time and resources.[54] Cingular does not have its own LIDB, and must rely upon the LIDB of others. BellSouth confirms in its comments that it will cost in excess of $36 million, and take approximately one year *after* the development of industry standards, to provide 411 presubscription using LIDB.[55] Sprint concurs that Illuminet's proposal is "far more complicated than represented and would be extremely costly."[56] Accordingly, the Commission should reject this alternative proposal.

IV. Forced Presubscription Does Not Encourage An Efficient Marketplace

Telegate's presubscription plan would use Commission regulation to pave competing DA providers' way into the American DA market by requiring current market participants to subsidize their entry on a supercompetitive basis. If presubscription is required, carriers will have to spend hundreds of millions of dollars to modify their AIN routing, ordering, preordering and billing capabilities in order to offer consumers the opportunity to obtain DA from their choice of DA provider. As a result, carriers will have to increase the rate of either their DA offerings or their telecommunications services to pay for the consumers' ability to presubscribe to DA service. Telegate and other non-carrier DA providers will not incur these costs, and thus will have an advantage over their carrier counterparts. Particularly without a clear statutory

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[53] Illuminet Comments at 4.

[54] BellSouth Comments at 24; Cincinnati Bell Comments at 7; Sprint Comments at 8.

[55] BellSouth Comments at 24.

[56] Sprint Comments at 8.

mandate to create competition within 411, it is hard to justify such aggressive market intervention.

The current market for DA services does not justify the enormous expense required by Telegate's plan. The majority of commenters admit that implementation of Telegate's presubscription plan would be a very costly endeavor.[57] In fact, many commenters' expectations for implementing Telegate's presubscription plan far exceed the $0.11 per subscriber proposed by Telegate.[58] Thus, as BellSouth notes, one of two outcomes will occur: (1) consumers that do not use DA will have to subsidize the service; or (2) the approximately 20% of consumers that do use DA more than once a month will do so at a much greater cost.[59]

V. There is No Legal or Policy Basis for the Proposed Billing and Collection Obligations

To further implementation of presubscription, Telegate wants the Commission to require the incumbents to handle "billing and collection for DA service providers at a reasonable price because it is not economically feasible for new entrants to provide their own billing or rely on third-party billing-and-collection providers."[60] Metro One goes further, adding that the Commission should establish that the billing and collecting procedures should be provided by

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[57] AT&T Comments at 1; Cellular Directory Information, Inc. Comments at 1; Sprint Comments at 5; Verizon Comments at 3, 18-22; Independent Telephone & Telecommunications Alliance at 6; Communications Workers of America Comments at 1; SBC Comments at 28.

[58] Cincinnati Bell Comments at 8; Sprint Comments at 2; Independent Telephone & Telecommunications Alliance at 6; SBC Comments at 28

[59] BellSouth Comments at 3; *see also* Communications Workers of America Comments at 2.

[60] Telegate Comments at 27.

both LECs *and* wireless carriers.[61] These exaggerated demands have no basis in Commission precedent or policy.

Simply put, there is no statutory basis for requiring any carrier, particularly wireless carriers, to offer billing and collection services. The Commission has already ruled that billing and collection are not common carrier services, and are therefore not under the rubric of the Commission's authority.[62] Nor is there any reason to believe that competing carriers could not bill for these services themselves, or contract with a third-party billing agent to do so, even if the Commission were to implement the presubscription proposals.

In addition, as BellSouth notes, "billing and collecting of end-user charges is not inexpensive, no matter who performs the function."[63] Telegate and Metro One's billing and collection demands only further highlight their sense of entitlement regarding the extent to which they believe other carriers—whether ILEC, CLEC or wireless—should be required to subsidize their market entry plans. By demanding that the most costly parts of their own business models be assigned to others, they reveal how bankrupt their plans are. The Commission should reject these proposals out of hand.

VI. The Proposals Will Harm Consumers

The costs associated with mandatory presubscription greatly outweigh any purported benefits. In fact, there will be no benefit of any significance to the public. Creating more competition in an already competitive field, solely for the sake of competition, is not

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[61] Metro One Comments at 26.

[62] Verizon Comments at 27 (*citing Detariffing of Billing and Collection Services*, 102 F.C.C.2d 1150 ¶ 37 (1986), *recon. denied*, 1 FCC Rcd 443 (1986); *Audio Communications, Inc. Petition for Declaratory Ruling that the 900 Service Guidelines of US Sprint Communications Co. Violate Section 201(a) and 202(a) of the Communications Act*, 8 FCC Rcd. 8697 ¶ 18 (1993)).

synonymous with the public interest. Consumers will see no benefit but will end up confused, and if 411 were eliminated altogether, the confusion would be even greater.

A. Presubscription Will Bring No Consumer Benefit

Many commenters point to declining use of 411 services and note that there is little evidence to suggest that consumers want the ability to presubscribe to 411.[64] Telegate alternatively argues that presubscription to 411 will "immediately open the DA market to vigorous competition, with a minimum of inconvenience to consumers."[65] Yet, despite the Commission's request for comments in this proceeding, there has been no groundswell of consumer support for presubscription.[66]

Telegate further claims that presubscription will lead to increased innovation, better service, improved accuracy and the introduction of service to unserved area, but offers no empirical or practical proof for these assertions.[67] There is real concern, highlighted by parties in this proceeding, that instead of benefiting consumers, the average consumer will be harmed by Telegate's plan.[68] Under either of Telegate's presubscription or new 411-based dialing code plans, consumers, at minimum, will suffer confusion and higher rates.[69]

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[63] BellSouth Comments at 28.

[64] Cincinnati Bell Comments at ii; Sprint Comments at 4.

[65] Telegate Comments at 19.

[66] Communications Workers of America Comments at 1.

[67] Telegate Comments at 3.

[68] Independent Telephone & Telecommunications Alliance at 8.

[69] AT&T Comments at 9-11; BellSouth Comments at 4; Sprint Comments at 4; SBC Comments at 4.

Under a presubscription plan, consumers would be presented with options for choosing their directory assistance provider. SBC argues that "411 presubscription adds a level of complexity, not simplicity."[70] Without even knowing that consumers wish to have a preference for their provider of directory assistance, the Commission would be suddenly subjecting consumers to higher rates. This requirement is particularly troublesome in the wireless context, where customers currently receive numerous enhanced directory assistance services, and have already made their decision as to their directory assistance provider when choosing from among the many packages of services offered by competing wireless providers.

B. Eliminating 411 Dialing for DA Would Harm Consumers

Eliminating the use of 411 to reach DA creates even further consumer problems. As an initial matter, consumers would lose a well-recognized phone service. Generations of Americans have used 411 to reach DA for their entire lives the code has been used in many areas since 1966. Without the ability to access DA through 411, many consumers would have no idea how to access DA information.[71] This concern become especially acute when considering use of 411 "for children, elderly or disabled consumers."[72]

Commenters cite to other potential problems that could arise for consumers as a result of eliminating 411 for DA purposes.[73] The elimination of 411 would "be costly to implement; likely to require expensive and confusing balloting; open new opportunities for cramming and slamming; [and] raise jurisdictional problems for state commissions to ensure that consumers

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[70] SBC Comments at 25.

[71] AT&T Comments at 11.

[72] Communications Workers of America Comments at 8.

[73] California Public Utilities Commission Comments at 7; Communications Workers of America at 8; SBC Comments at 51.

have a minimum number of free calls."[74] Indeed, consumers could suffer real harm from losing the ability to call 411 for DA purposes.

Most importantly, there is no evidence that consumers *want* to dial a number other than 411 to access DA. The elimination of 411 to obtain DA is a solution in search of a problem. Even Telegate admits that "many customers now prefer dialing 411."[75] The California Public Utilities Commission rejects the removal of the 411 abbreviated dialing code, as it "is a well-established, recognized dialing pattern that customers have come to associate with DA service."[76] As one commentor aptly concludes: "competition for the sake of competition is not desirable if it results in higher costs for the consumer with no additional benefits realized."[77]

Elimination of 411 will harm consumers by confusing them, eliminating a well-understood dialing pattern, and raising their costs, without any discernable consumer benefit.

CONCLUSION

Given the lack of statutory authority to implement these alternative directory assistance plans, the Commission should continue to refuse to impose further regulations on the DA industry, particularly in the wireless arena. Moreover, without proof that presubscription or the other directory assistance plans proposed in this proceeding will benefit consumers, the

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[74] Communications Workers of America at 8.

[75] Telegate Comments at 3.

[76] California Public Utilities Commission Comments at 2, 7.

[77] The Utility, Cable & Telecommunications Committee of the City Council of New Orleans Comments at 3.

substantial costs resulting from the proposals are clearly unjustified. In today's competitive DA marketplace, the Commission should let innovation rule, and decline Telegate's proposal to require presubscription of 411 or other alternative directory assistance dialing measures.

Respectfully submitted,

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