

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Provision of Directory Listing Information	)	
Under the Communications Act of 1934,	)	CC Docket No. 99-273
As Amended	)	
	)	
The Use of N11 Codes and Other	)	CC Docket No. 92-105
Abbreviated Dialing Arrangements	)	
	)	
Administration of the North American	)	CC Docket No. 92-237
Numbering Plan	)	

**WORLD COM REPLY COMMENTS**

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**April 30, 2002**

**Its Attorneys**

## **SUMMARY**

The cost of providing customized routing using line class codes does not outweigh the benefits of presubscription. Almost all parties agree that 411 and directory assistance (DA) are virtually synonymous to consumers. This makes it essentially impossible to successfully market a dial around DA product. Currently, the only alternative consumers have to the incumbent local exchange carriers' (ILECs) 411 service requires them to change their local provider. Presubscription will allow customers to obtain DA, using the customary dialing code, from the provider of choice without having to subscribe to other products or services from that provider. It will also stimulate the market for enhanced services.

In attempting to refute the benefits of presubscription, parties opposing presubscription resorted to a redefinition of the DA market, made conflicting assertions related to significance of the 411 dialing code to DA service, and overestimated the cost of implementing presubscription.

The Commission should, pursuant to its statutory authority, order LECs to implement 411 presubscription.

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**WORLDCOM REPLY COMMENTS**

WorldCom, Inc. (WorldCom) respectfully submits these comments in response to initial comments filed pursuant to the Commission’s Notice of Proposed Rulemaking (*Notice*) in the above referenced dockets.<sup>1</sup>

**I. Introduction.**

The comments demonstrate that the need for presubscription of directory assistance (DA) services outweigh the costs. In attempting to prove otherwise, parties opposing presubscription resorted to a redefinition of the DA market, made conflicting assertions related to significance of the 411 dialing code to DA service, and overestimated the cost of implementing presubscription.

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<sup>1</sup> *In the Matter of Provision of Directory Listing Under the Communications Act of 1934, As Amended, The Use of N11 Codes and Other Abbreviated Dialing Arrangements Administrations of the North American*

Almost all commenters agree that 411 and DA services have become virtually synonymous to consumers. This makes it essentially impossible to successfully market a dial around DA product. Currently, the only alternative consumers have to the ILECs 411 service requires them to change their local provider. Presubscription will allow customers to obtain DA, using the customary dialing code, from their provider of choice without having to subscribe to other products or services from that provider. It will also stimulate the market for enhanced services. As discussed below, and the attached declaration by Mark Bryant on behalf of WorldCom, the cost of providing customized routing using line class codes does not outweigh the benefits of presubscription.

The Commission should, pursuant to its statutory authority, order LECs to implement 411 presubscription.

## **II. The cost of customized routing using line class codes does not outweigh the benefits of presubscription.**

A number of parties dismiss a switch-based solution for presubscription as cost prohibitive, without much analysis.<sup>2</sup> It is noteworthy that Qwest did not address costs in its comments. As discussed in the attached declaration of Mr. Bryant, a cost study submitted by Qwest in an Arizona state proceeding demonstrates that the actual cost of implementing presubscription for DA, via customized routing, is much lower than the estimates claimed by the ILECs in this proceeding.<sup>3</sup> The Qwest cost study specifically provides an estimated cost of providing customized routing to a provider of operator and

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*Numbering Plan*, Notice of Proposed Rulemaking, CC Docket No. 99-273, 92-105, 92-237, FCC 01-384 (2002)(*Notice*).

<sup>2</sup> See Verizon, p. 22, *citing to Notice*, para. 28 [“For all the reasons noted in the Notice, distinct routing would not be a viable option for 411 presubscription.”] BellSouth estimates a cost of \$152 million to support distinct routing. BellSouth Comments, p. 25. SBC estimated a cost of \$675 million to \$685 million for a switch-based solution. SBC, p. 39.

DA services by means of a line class code.<sup>4</sup> Qwest charges providers \$231.38 per switch for customized routing.<sup>5</sup>

WorldCom contends that Qwest's estimate is high. As explained by Mr. Bryant, it is logical to assume that the LECs, at least the major ILECs, have a central management control process that allows them to monitor and manage switches from a central location. Therefore, once the switch table translations and routing instructions are established for the first switch, the ILEC should be able to automatically populate the other switches via an electronic switch administration. This should drastically reduce the cost for establishing customized routing, via line class codes, in additional switches.<sup>6</sup> But even using Qwest's per switch estimate, the approximate cost for establishing the requisite customized routing for a nationwide DA provider would be approximately \$3.4 million.<sup>7</sup>

Qwest also has a policy that its customized routing can only be used in conjunction with dedicated DA trunks from ILEC end offices to DA platforms. As discussed by Mr. Bryant, requiring dedicated trunks is not only cost-prohibitive, it is unnecessary. Providers can use existing access trunks, and therefore such a restriction should not be permitted.<sup>8</sup> Moreover, in general, the cost allocation for implementing presubscription should be competitively neutral.<sup>9</sup>

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<sup>3</sup> Bryant Declaration, paras. 6-13.

<sup>4</sup> WorldCom does not concede that Qwest's pricing of customized routing is cost-based. WorldCom believes the Qwest estimate is high. WorldCom is using Qwest's study to demonstrate that customized routing using line class codes is feasible and not as costly as other ILECs in this proceeding have claimed.

<sup>5</sup> Bryant Declaration, paras. 10 and 13.

<sup>6</sup> *Id.*, para. 11.

<sup>7</sup> *Id.*, para. 12.

<sup>8</sup> *Id.*, paras. 14-15. Non-IXC providers of DA could also benefit from existing access trunks, by purchasing resold capacity to carry their DA traffic to their DA platform. *Id.*, para. 16.

### **III. Presubscription offers significant benefits to consumers.**

As the Commission stated in its *Directory Listing Order*, the Telecommunications Act of 1996 is intended to “accelerate rapid private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunication markets to competition.”<sup>10</sup> Even assuming *arguendo*, that the DA market was already competitive, one of the goals of the 1996 Act is “promoting *increased* competition in telecommunications markets that are already open to competition.”<sup>11</sup> As InfoNXX points out, competition generally fosters lower prices and a higher quality of service for consumers. In the DA market in particular, competing providers are also poised to offer a broad array of enhanced information and telecommunication services to consumers.<sup>12</sup>

Cincinnati Bell Telephone Company (CBT) cites to regulatory constraints as the reason it does not offer enhanced DA services, such as movie listings, concierge services, and driving directions, to its customers via 411.<sup>13</sup> But the applicability of the relevant regulation is within CBT’s control. In the Commission’s *N11 Order*, the Commission recognized the competitive advantage LECs would unfairly obtain if they were allowed to offer enhanced services through the use of the 411 code. Accordingly, the Commission concluded “that a LEC may not itself offer enhanced services using a 411 code, or any other N11 code, *unless that LEC offers access to the code on a reasonable,*

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<sup>9</sup> *Id.*, paras. 17-20.

<sup>10</sup> *Provision of Directory Listing Information Under the Telecommunications Act of 1934, As Amended*, First Report and Order, CC Docket No. 99-273, FCC 01-27, para. 5 (2001)(*Directory Listings Order*), *citing to* S. Conf. Rep. No. 104-230, 104<sup>th</sup> Cong., 2d Sess. 1 (1996).

<sup>11</sup> *Id.*, para. 10 (*emphasis added*).

<sup>12</sup> See InfoNXX, p. 3. See also Telegate, pp. 3-4, and 18-19 [“The relatively minor one-time costs of making these changes are far outweighed by the ongoing, long-term benefits they will produce, including: Increased innovation; Better service; Improved accuracy; and Introduction of service to unserved markets.”]

*nondiscriminatory basis to competing enhanced service providers in the local service area for which it is using the code to facilitate distribution of their enhanced services.”*<sup>14</sup>

Indeed, if CBT seeks to offer these enhanced services via 411 it should implement presubscription.

In an effort to refute the obvious benefits of presubscription, the comments in opposition ultimately contradict themselves. For example, some parties claim that there is no demand for presubscription. Yet some of these same parties discuss how businesses are reprogramming their PBXs to an alternative DA provider, thus “effectively” presubscribing to an alternative DA provider.<sup>15</sup> This demonstrates a demand for presubscription, but unfortunately the option is unavailable to residential consumers. Some parties also claim that DA service does not generate sufficient revenue to sustain competitors in the market.<sup>16</sup> Still they claim the loss in revenue stream to LECs would be so significant as to potentially discourage new LECs from entering the market.<sup>17</sup>

The fact is that DA is a vibrant market over which LECs, predominately ILECs, wish to maintain their control through the exclusive use of 411. But, as the Nebraska Public Service Commission states, “[i]f ILECs continue to be afforded the exclusive opportunity to provide directory assistance through the use of 411, consumers will be deprived of the benefits derived from competition . . . [and] such exclusive use of 411 for ILECs is anti-consumer and anti-competitive.”<sup>18</sup>

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<sup>13</sup> CBT, p.6.

<sup>14</sup> *In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, First Report and Order, FCC 97-51, 12 FCC Rcd 5572, 5601, para. 48 (1997)(*N11 Order*)(*emphasis added*).

<sup>15</sup> See CBT, p.2. See also, Verizon, p. 15.

<sup>16</sup> The decline in DA call volume, claimed by the ILECs, may be the result of price increases and may not be effecting revenue. See Bryant Declaration, para. 25.

<sup>17</sup> See, SBC, p. 28.

<sup>18</sup> Nebraska PSC, p. 1.

#### **IV. Competition in directory publishing does not constitute competitive directory assistance.**

Those opposed to equal access to 411 argue that the DA market is already competitive, and therefore presubscription is unnecessary. Yet, in their attempts to prove the existence of a competitive market, those parties refer to several products or services, as competitive alternatives, that cannot properly be viewed as competitive with wireline DA. For example, they include services and products such as the White Pages, Yellow Pages and Internet Listings, in their market analysis. As the Commission has found, these are directory publishing.<sup>19</sup>

Directory publishing and directory assistance have been treated as separate and distinct products or services.<sup>20</sup> Print directories, Internet DA, Internet data base downloads, or CD-ROM data bases cannot be considered competition, as they are not functionally equivalent to wireline DA service. They require a separate device and process for access that a substantial number of telephone users do not have. Moreover, as discussed in the Bryant declaration, the vast majority of households with access to the Internet use a dial-up connection via an existing phone line. This means that in order to obtain a number to make a call, one would have to dial up one's Internet connection, search for the number, terminate the Internet connection, and then make the call. The

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<sup>19</sup> See *Directory Listing Order*, para. 42. The Commission found Internet directories to be directory publishing. The Commission found that the oral provisioning of listing information does not constitute directory publishing. *Id.*, para. 46.

<sup>20</sup> *Id.*, para. 40. Additionally the Commission noted the differing statutory treatment for directory assistance and directory publishing, “. . . finding that the two services have not sufficiently converged to obviate Congress's distinctions between them.” *Id.*, para. 37, n. 98, and 46-49.

cumbersome nature of this process demonstrates that Internet directories serve a different purpose and are an unlikely substitute for wireline DA services.<sup>21</sup>

Thus, even if the comments demonstrate a competitive market for directory publishing, they do not demonstrate a competitive market for DA. In fact, as rationale for the differing regulatory treatment of these services, the Commission explained, “[i]n addition to the technical distinctions between the two types of services, we agree that directory publishing has been a competitive business for years, while directory assistance is just now becoming a competitive service.”<sup>22</sup>

Those parties opposing equal access to 411 also cite to wireless DA service as a competitive alternative to wireline DA service. As discussed in the Bryant declaration, the devices and circumstance for using wireline DA are different than for wireless DA. Wireless DA is used in conjunction with wireless service, usually when one is mobile. Wireline DA is a complement to wireline telephony, for use when one is at home.<sup>23</sup> Moreover, since the retail wireless DA market is currently dominated by the same ILECs that provide retail wireline 411 service, even assuming for the sake of argument that the two services form a single market, the presence of a wireless ‘alternative’ does not indicate the existence of competition.<sup>24</sup>

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<sup>21</sup> Bryant Declaration, para. 24.

<sup>22</sup> *Directory Listing Order*, para. 49.

<sup>23</sup> Bryant Declaration, para. 23.

<sup>24</sup> *Id.*; *See also*, MetroOne, p. 15.

## **V. Alternate dialing schemes cannot compete effectively with 411 DA services.**

DA services using alternative dialing codes are unable to effectively compete with 411 services. Even those opposing equal access to 411 recognize that it is a burden for consumers to be forced to dial a large number of additional digits for DA service.<sup>25</sup> Consumers also recognize this burden which is why dial around products are not competitive.<sup>26</sup> Moreover, as InfoNXX notes, even if competing DA providers were able to offer a simple, easy-to-remember uniform number to access their service, they would still remain at a significant competitive disadvantage to the dominant LECs offering service to consumers through 411. “4-1-1” is the number consumers have habitually come to rely on for DA services.<sup>27</sup>

Those opposed to presubscription claim that alternative DA providers can compete without the use of the 411 code, yet their comments, opposing the elimination of 411, prove otherwise. SBC notes that “. . . consumers have a difficult time adjusting to code changes.”<sup>28</sup> AT&T states: “Generations of Americans learned that dialing 411 will gain them access to DA. The three digits “4-1-1” have become synonymous with information . . . [Without 411] customers would not know where to call for assistance.”<sup>29</sup> Indeed, the only consensus in the comments may be that the “411 abbreviated dialing code is a well-established, recognized dialing pattern that customers have come to associate with DA service.”<sup>30</sup> It is inconceivable that, on the one hand, these parties are able to recognize the habitual nature of consumers dialing 411 for DA, yet, on the other

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<sup>25</sup> SureWest, pp. 6-7 [“. . . eliminating the 411 code for the local DA would add an unnecessary burden on end users by requiring them to dial a large number of additional digits for the same local DA”].

<sup>26</sup> See *InfoNXX*, p. 6 [A “DA provider’s number must be easy to recall or it stands no chance of competing against traditional services that already enjoy this characteristic.”]

<sup>27</sup> *Id.*, pp. 10-11.

<sup>28</sup> SBC, p. 51.

<sup>29</sup> AT&T, p. 11.

hand, they refuse to acknowledge the impossibility of a provider successfully competing without access to this code.

This is evident by WorldCom's experience in the dial around DA market. A few years ago, WorldCom (then MCI WorldCom) began offering its dial around DA product, "10-10-9000," which the ILECs and AT&T discuss in their comments as a competitive alternative to 411 service. By dialing "10-10-9000," callers were able to obtain DA listings for 99 cents. WorldCom expended a substantial amount of resources in promoting this dialing scheme to DA consumers.

While the product offering itself and the advertising campaign both received high scores in numerous research efforts, the number never generated wide acceptance as an alternative to 411 DA service. WorldCom learned the hard way just how reliant DA consumers are on the 411 dialing code. WorldCom estimates an investment of over \$300 million is required to generate sufficient awareness of a different dialing scheme for DA. In the end, this makes attempts to migrate consumers away from the 411 dialing code, while 411 DA is still in existence, cost prohibitive.

As the NERA study submitted by the ILECs points out, consumers surveyed indicated a preference for maintaining the familiar dialing code for information over having a wider choice.<sup>31</sup> This demonstrates that equal access to the 411 code is a critical competitive element for DA service. Presubscription allows consumers to have both the familiar code as well as a wider choice in providers.

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<sup>30</sup> California Public Utilities Commission, p. 2. *See also*, CBT, p. 15.

## **VI. ILECs monopolize provisioning of 411 service.**

As MetroOne states “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.”<sup>32</sup>

Some of those in opposition to 411 presubscription cite to the *UNE Remand Order* as evidence that there is competition in the DA market. First, it is noteworthy that the *UNE Remand Order* contemplates service via 411, so it does not refute the 411 code as a necessary element of DA. Second, the Commission found in that Order “. . . that where incumbent LECs provide customized routing, lack of access to the incumbents’ OS/DA service on an unbundled basis does not materially diminish a requesting carrier’s ability to offer telecommunications service.”<sup>33</sup>

WorldCom does not dispute that there are alternative providers of DA ready to serve CLECs or, if the Commission orders presubscription, end-users. Indeed, this supports our claims that there is high demand in the wireline DA market, otherwise there would not be so many willing suppliers. WorldCom also does not dispute that carriers can develop their own DA platforms. But as we stated in our initial comments, the ILECs are able to monopolize this service by their refusal to alternate their routing of 411 calls to competitive providers’ platforms.<sup>34</sup> Thus, the only competitive option to the ILECs DA platform is through facilities-based CLECs. DA providers need customized

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<sup>31</sup> National Economic Research Association (NERA), “Competition and Regulation for Directory Assistance Services,” April 1, 2002, p. 53. Prepared on behalf of BellSouth Corporation, Qwest Communications International Inc., SBC Communications Inc., and Verizon Telephone Companies.

<sup>32</sup> MetroOne, p. 3.

<sup>33</sup> *UNE Remand Order*, para. 441.

<sup>34</sup> Apparently the ILECs are also refusing to properly route traffic based on other dialing codes such as 555, further entrenching their monopoly. See InfoNXX, pp. 7-10; See also, Premiere Network Services, p. i.

routing (with no restrictions regarding the trunk group to which the traffic is routed) and use of the 411 code in order to offer a competitive product.<sup>35</sup>

**VII. The Commission should order presubscription pursuant to its statutory authority.**

The Commission has numerous statutory grounds to order presubscription of 411 for DA services. Some ILECs claim the Commission's authority over numbering only extends to number assignments, not call routing. As we discussed in our initial comments, Commission and appellate court decisions have determined that the Commission's plenary authority over all aspects of the North American Numbering Plan, under section 251(e)(1) of the Act, includes call routing, as well as the assignment of numbers.<sup>36</sup>

Some ILECs argue that their dialing parity obligations do not extend to DA services because, they claim, providers such as Telegate are not telephone exchange or telephone toll providers. First, the Commission has already concluded that DA providers that actually complete the call for the customer are local exchange providers.<sup>37</sup> Second, regardless of whether all DA providers are local exchange providers, providers such as WorldCom are both local exchange and telephone toll providers, and therefore are clearly entitled to dialing parity.

ILECs also claim dialing parity does not apply to DA services because stand-alone DA service is not a telecommunications service. Commission precedent regulates

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<sup>35</sup> As discussed in other proceeding, DA providers also need access to DA listings and facilities at cost-based rates.

<sup>36</sup> WorldCom, pp. 7-9.

<sup>37</sup> *Directory Listing Order*, para. 15.

DA service as a telecommunications service in general. Moreover, with call completion DA clearly constitutes a telecommunications service. Yet even under the ILEC argument, WorldCom should be able to offer its toll customers DA service via the 411 code. Furthermore, contrary to SBC's claim, even assuming *arguendo* that section 251(b)(3) does not obligate LECs to provide dialing parity for DA services, which it clearly does, it does not limit Commission authority under other provisions of the Act. It is ironic that SBC claims that dialing parity does not apply to DA services, only to then say the regulation of DA services is limited by the dialing parity provision of Act.

Moreover, contrary to the claims of ILECs in this proceeding, the nondiscriminatory access to DA provision of the Act is not limited to nondiscriminatory access to the ILECs' DA services. As the Commission found it also means nondiscriminatory access to the elements necessary to provide DA services. As discussed above, the 411 dialing code and customized routing are necessary elements to the provision of competitive DA service.

Consequently, the Commission should, pursuant to the its statutory authority, order LECs to implement 411 presubscription.

Respectfully submitted,

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