

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Notice of Inquiry Concerning a Review of
the Equal Access and Nondiscrimination
Obligations Applicable to Local Exchange
Carriers

CC Docket No. 02-39

COMMENTS OF VERIZON

Michael E. Glover
Edward Shakin
Of Counsel

John M. Goodman
Attorney for the Verizon
telephone companies

1300 I Street, N.W.
Washington, D.C. 20005
(202) 515-2563
john.m.goodman@verizon.com

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Summary

The Commission's Notice raises two sets of issues. The first involves an examination of "the continued importance of the equal access and nondiscrimination obligations of section 251(g) of the Communications Act of 1934."¹ Second is to examine more generally the equal access and nondiscrimination obligations of local exchange carriers and to determine whether changes in the marketplace require any changes in those obligations. The answers to these questions are straightforward. More than 20 years after they were written, the equal access and nondiscrimination obligations continued by section 251(g) are no longer relevant. Other rules originally devised for LECs in the 1980's must be revamped in light of today's marketplace.

Section 251(g) preserves the equal access and nondiscrimination obligations of the AT&T and GTE consent decrees when those decrees were superceded by that Act. Those obligations were originally imposed as part of the restructuring of the industry brought about by those two decrees, in order to end the favored position AT&T held in the long distance market.

¹ Notice ¶ 1.

That restructuring was completed long ago, and other provisions of the 1996 Act adopted into the statute the essential requirements of interconnection, dialing parity and the like. Because the work of the equal access obligations that section 251(g) continued is done, Verizon² urges the Commission to end those requirements now.

In today's telecommunications market, there is no justification for retaining different obligations on local exchange carriers based solely upon their origins as Bell operating companies, GTE operating companies, "independent" local exchange carriers and "competitive" local exchange carriers, except as Congress directed in section 251(c) that the requirements be different in order to facilitate the introduction of local competition. All local exchange carriers are the means by which their customers get access to other service providers and other service providers get access to those customers. All local exchange carriers are required to interconnect with interexchange carriers and provide dialing parity. When a Bell company has passed the section 271 test, all exchange carriers in an area will be able to offer customers a full range of telecommunications products and services. When that happens, all should be subject to the same rules, again except where Congress has otherwise directed.

But the Commission should not stop with simply repealing the carry-over duties from consent decrees from the 1980's. It must also re-examine all the various equal access and nondiscrimination requirements that have grown up over the years. And the obligations imposed by those rules should be minimal. The Commission should not regulate how any LEC markets its, or its affiliate's, long distance service. It should not require any LEC to maintain lists of its competitors to be read in case some customer asks. As the accompanying declaration of Robert

² The Verizon telephone companies are the local exchange and interexchange carriers affiliated with Verizon Communications Inc., listed in Attachment A.

W. Crandall shows, there is no economic justification for continuing any of these regulations, and doing so would only harm consumers.

The Obligations Continued by Section 251(g) Should Be Terminated.

The purpose of the rules that are the subject of this Notice was fulfilled long ago. The BOCs and former GTE operating companies should not be subject to any continuing obligations that do not apply to other local exchange carriers.

One of the purposes of the Telecommunications Act of 1996 was to take telecommunications regulation out of the antitrust courts.³ That legislation, therefore, provided that all activities that were then subject to the AT&T and GTE consent decrees would become subject to the requirements and obligations of the Communications Act and would no longer be subject to the restrictions and obligations of those decrees.⁴

Congress nonetheless provided that certain obligations those decrees imposed “relating to equal access and nondiscrimination for interexchange carriers” would continue, at least for a while.⁵ Thus, section 251(g) provides:

“each local exchange carrier, to the extent that it provides wireline services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and

³ As the House Judiciary Committee explained, “national telecommunications policy should be set by Congress acting through generally applicable legislation” not by antitrust courts in individual cases. H. Rep. No. 104-203, pt. 1, 104th Cong., 1st Sess., at 14 (1995) on the Antitrust Consent Decree Reform Act of 1995.

⁴ Telecommunications Act of 1996 § 601(a), Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁵ Conference Report 104-458, 104th Cong. 2d Sess., at 123, 199 (1996). By its express terms, the obligations preserved by section 251(g) apply only to “local exchange carriers,” not to non-LEC affiliates of LECs. And by adding the phrase “including the receipt of compensation,” Congress also continued the access charge regime.

obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree, or regulation, order, or policy of the Commission.”

These obligations are explicitly interim and continue only until the Commission determines otherwise — that is, until they are “explicitly superceded.” Congress took pains to make clear that it did not expect these consent-decree-based rules to be permanent — as it twice referred to “[t]hese interim restrictions and obligations”⁶ — and Congress took care to point out, “The use of the provisions of the respective consent decrees to provide, on an interim basis, the substance of the new statutory duty in no way revives the consent decrees.”⁷ The Commission has also recognized the transitional nature of the section 251(g) equal access obligations — “[t]hat provision is a transitional enforcement mechanism” and “the provision incorporates into the Act, on a transitional basis, these [AT&T Consent Decree] requirements.”⁸

The “equal access and nondiscriminatory interconnection restrictions” originally came from the AT&T consent decree, or MFJ, that broke up the Bell System in 1984. That decree split the Bell System’s local exchange business from its interexchange business. At the same time, the decree contained injunctions on the BOCs to make sure they did not, in effect, continue to treat AT&T as if they were still related. Thus, the decree required that the BOCs provide equal access and nondiscriminatory interconnection to all providers in the interexchange business that AT&T would retain. In particular, section II(A) of the decree required,

⁶ Conference Report at 123.

⁷ Conference Report at 123.

⁸ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd 385 at ¶ 47 (1999).

“Subject to Appendix B, each BOC shall provide to all interexchange carriers and information service providers exchange access, information access, and exchange services for such access on an unbundled, tariffed basis, that is equal in type, quality, and price to that provided to AT&T and its affiliates.”⁹

Appendix B, entitled *Phased-in BOC Provision of Equal Exchange Access*, detailed the technical requirements of “equal access,” the schedule for its implementation and related subjects.¹⁰ Judge Greene explained the equal access requirement as follows:

“The features of full equal access are: (1) dialing parity; (2) rotary dial access; (3) network control signalling; (4) answer supervision; (5) automatic calling number identification; (6) carrier access code; (7) directory services; (8) testing and maintenance of facilities; (9) provision of information necessary to bill customers; and (10) presubscription.”¹¹

The Commission essentially adopted this definition of “equal access” in 1985.¹²

The AT&T consent decree also contained an additional injunction against a BOC’s continuing to favor AT&T. Section II(B) provided:

“No BOC shall discriminate between AT&T and its affiliates and their products and services and other persons and their products and services in the:

* * *

“3. interconnection and use of the BOC’s telecommunications service and facilities or in the charges for each element of service....”¹³

⁹ AT&T Consent Decree § II(A). Section V(A) of the GTE Consent Decree imposed similar obligations.

The decree defined “exchange access” as “the provision of exchange services for the purpose of originating or terminating interexchange telecommunications.” It then defined “exchange access services” to include, but not be limited to, the following activities or functions: “the provision of network control signalling, answer supervision, automatic calling number identification, carrier access codes, directory services, testing and maintenance of facilities and the provision of information necessary to bill customers.” AT&T Consent Decree § IV(F).

¹⁰ The GTE decree contained an Appendix B entitled *Phased-in GTOC Provision of Equal Exchange Access*.

¹¹ *United States v. GTE Corp.*, 603 F. Supp. 730, 743 n.55 (D.D.C. 1984).

¹² *MTS and WATS Market Structure Phase III*, 100 F.C.C.2d 860 ¶¶ 56-59 (1985).

The decree required the Bell companies to file with the Department of Justice their procedures for ensuring compliance with these obligations.¹⁴

The Department of Justice explained the purpose of the equal access/nondiscrimination obligations of the AT&T decree in these terms:

“The injunctive provisions contained in Section II of the proposed modification are intended to complement the incentive effects of these basic structural changes and to relieve, to the extent reasonably possible, the lingering effects that AT&T’s pre-reorganization structure may have on the BOCs’ future operations.”¹⁵

Thus, the equal access/nondiscrimination provisions of the AT&T decree were included to make sure that the divestiture really had its intended effect — to make sure that the BOCs did not continue to discriminate in favor of their former parent, AT&T. “Taken together, the non-discrimination provisions are designed to ensure that the divested BOCs do not abuse their status as regulated franchised monopolies to disadvantage competitors of AT&T in the provision of intercity services, information services, or in the provision of telecommunications equipment for purchase by a BOC or its customers.”¹⁶ As Judge Greene explained, these provisions were necessary:

“Although after divestiture the Operating Companies will no longer have the same incentive to favor AT&T, a substantial AT&T bias has been designed into the integrated telecommunications network, and the network, of course, remains in that condition. It is imperative that any disparities in interconnection be eliminated so that all interexchange and information service providers will be able to compete on an equal basis.”¹⁷

¹³ AT&T Consent Decree § II(B). Section V(B) of the GTE Consent Decree imposed similar obligations.

¹⁴ AT&T Consent Decree § II(C).

¹⁵ Competitive Impact Statement, 47 Fed. Reg. 7170, 7175 (1982).

¹⁶ 47 Fed. Reg. at 7175-76.

¹⁷ *United States v. American Tel. & Tel. Co.*, 552 F. Supp. 131, 195 (D.D.C. 1982), *aff’d sub nom.*, *Maryland v. United States*, 460 U.S. 1001 (1983).

GTE, of course, had never been corporately affiliated with AT&T. However, its consent decree contained similar provisions for similar reasons. Again in the words of Judge Greene:

“The GTE Operating Companies have a long-standing partnership with AT&T. As a member of that partnership, GTE had an incentive to favor AT&T, and it is claimed to have acquiesced in AT&T’s various allegedly anticompetitive activities. By requiring the GTE Operating Companies to terminate their partnership with AT&T, the decree will tend to remove GTE’s incentive and ability to favor that company which has frustrated the achievement of a more competitive interexchange market.”¹⁸

All this makes clear that these decree provisions were not broad “nondiscrimination” prohibitions. They were narrowly focused provisions drafted to complement the divestiture requirement of the AT&T decree, and they were designed to make sure that the divested BOCs would not continue to favor AT&T.

The text of these provisions also shows that they have nothing whatever to do with a BOC’s marketing of interexchange services. They require equal “exchange access” and nondiscriminatory “interconnection and use of the BOC’s telecommunications service and facilities,” neither of which includes marketing. It is not surprising that the AT&T decree did not regulate or put conditions on a BOC’s marketing of interexchange services because it flatly prohibited such activities. A BOC could not market its own interLATA services because it wasn’t allowed to provide any. It also could not market the interLATA services of others, not because that would have violated the decree equal access-nondiscrimination provisions, but rather because, under the decree, marketing an interLATA service was the same as providing that service and would have violated the section II(D) line-of-business restrictions.¹⁹

¹⁸ *United States v. GTE Corp.*, 603 F. Supp. 730, 735 (D.D.C. 1984).

¹⁹ *United States v. Western Elec. Co.*, 627 F. Supp. 1090, 1101 (D.D.C. 1986).

The exception to the interLATA restriction on the BOCs also proves the rule that the decree did not regulate how the BOCs could market interLATA services. As part of the AT&T divestiture, certain BOCs were allowed to provide limited interLATA services — most notably in the so-called “corridors” between New York City and Northern New Jersey and between Philadelphia and Southern New Jersey.²⁰ Nothing in the decree constrained how these BOCs marketed these services.

At this point, in 2002, the purposes of these decree provisions have been completely accomplished, probably more completely than their drafters would have imagined possible. The networks of local exchange carriers have almost universally been upgraded to provide technical equal access, to a greater extent, in fact, than was required by the two decrees. Verizon is 100 percent equal access, and several years ago the Commission reported, “At the end of 1996, 99.4% of the nation's telephone lines had been converted to equal access.”²¹ Moreover, “dialing parity” is now a statutory obligation that all local exchange carriers have under section 251(b)(3). The job of reengineering the network to remove the bias in favor of AT&T was completed long ago.

The “substantial AT&T bias” that existed when the AT&T consent decree was entered twenty years ago has also long since vanished.²² Verizon expects that it has been many many years since any Bell company was last accused of having a pro-AT&T bias. And in the marketplace of 2002, it is virtually impossible to imagine such a charge being made.

²⁰ *United States v. Western Elec. Co.*, 569 F. Supp. 1057, 1107 (D.D.C. 1983).

²¹ Industry Analysis Division Common Carrier Bureau Federal Communications Commission, DISTRIBUTION OF EQUAL ACCESS LINES AND PRESUBSCRIBED LINES at 2 (November 1997).

²² See Crandall Dec. ¶¶ 12-15.

The equal access and nondiscrimination obligations of section 251(g) were intended to be transitional, and that section perpetuates rules that are no longer relevant. The Commission should end this transition with an order that declares that the equal access and nondiscrimination obligations continued by section 251(g) are no longer in effect.

Finally, the Notice also asks whether the FCC should forbear from the equal access requirements pursuant to the standards of section 10.²³ These requirements were transitional in nature, and the Commission can, and should, simply terminate the transition. There is no need to go through a section 10 forbearance process. However, if these requirements are subjected to the section 10 test, forbearance would be required, as they are not necessary to ensure that practices are just and reasonable or to protect consumers, and their removal would, therefore, be in the public interest. Moreover, the Commission has an affirmative obligation to review its regulations and to repeal those that “are no longer necessary in the public interest.”²⁴

“Equal Access” Under Other Statutory Provisions

The Act contains other provisions that impose “equal access” and “nondiscriminatory interconnection” obligations. The Commission was able to require non-BOC and non-GTOC LECs to provide equal access²⁵ and to order the BOCs to conduct the balloting and allocation²⁶ even before the 1996 amendments to the Act. As noted above, there is the section 251(b)(3) “dialing parity” obligation that all LECs have, as well as the general interconnection provisions

²³ Notice ¶ 10.

²⁴ 47 U.S.C. § 161(b). *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027 (D.C. Cir. 2002).

²⁵ *MTS and WATS Market Structure Phase III*, 100 F.C.C.2d 860 (1985).

²⁶ *Investigation of Access and Divestiture Related Tariffs*, 101 F.C.C.2d 911 (1985).

of sections 201(a) and 251(a). There are also the special provisions of section 272 that govern the interactions between a BOC and its interexchange carrier affiliate and create additional nondiscrimination obligations, but these requirements are limited to the three-year transitional period and will sunset after that time. These provisions are more than sufficient to permit the Commission to prevent any abuses in today's marketplace.

The Notice probes the meaning of these provisions and the interaction among them.

It asks about the relationship between sections 272 and 251(g) and the sphere of marketing activities that BOCs with section 271 authority may pursue.²⁷ Section 251(g) has nothing to do with BOC interLATA service marketing activities, as the words of those decree provisions demonstrate.²⁸ As discussed above, the AT&T consent decree had no reason to speak to how a BOC marketed interLATA services because that decree prohibited such activities altogether.

The Notice also asks what types of marketing agreements between BOCs and other carriers are permissible under section 251(g).²⁹ The answer is that all such marketing agreements are permissible under section 251(g) for the same reasons. Marketing agreements between BOCs and interexchange carriers were prohibited by section II(D) of the decree, not by the decree sections perpetuated by section 251(g).

²⁷ Notice ¶ 16.

²⁸ Those provisions require the offering of equal exchange access (a term which does not include marketing of interexchange services) and the nondiscriminatory interconnection and use of telecommunications services and facilities (which also does not include marketing of interexchange services).

In deciding *AT&T Corp v. New York Tel. Co.*, 15 FCC Rcd 19997 (2000), the Commission found no violation even assuming that section 251(g) did apply.

²⁹ Notice ¶ 15.

The Notice asks whether different rules should apply to different types of local exchange carriers — BOCs, non-BOC ILECs, CLECs etc.³⁰ After the sunset of the three-year separation requirement of section 272, the relevant statutory provisions are the same for all LECs, sections 201, 202(a) and 251(b). The rules under those provisions should be the same as well. There is no longer any justification (even if there ever was) for treating LECs differently depending on their heritage. All ILECs have the same amount of “control” over the local exchange marketplace — that is, very little as a result of the implementation of the 1996 Act. CLECs are often cable operators, with their local monopoly cable system networks. Other CLECs are arms of large corporate telecommunications families, such as AT&T and Sprint. All LECs are the conduit through which their customers reach other service providers. There can be no reason to burden one set of these companies with special “equal access” rules.

The Commission Should Not Regulate LEC Marketing of Toll Services.

Section 251(g) of the Act does not bear on the way a Bell company may market interLATA services. Section 272 addresses the relationship between a BOC and its long distance affiliate and expressly permits joint marketing, but it applies only during the three-year period after the BOC receives section 271 authority in an in-region state. The only other possibly relevant statutory provisions are those that apply to all carriers, sections 201 and 202. Whatever rules are required by those sections would also have to apply to all carriers that provide local service — there may not be special rules for BOCs, ILECs or other categories of LECs.

The Commission should not burden this competitive marketplace with new regulations. When a BOC has been authorized to provide interLATA service in an in-region state, it means

³⁰ Notice ¶ 17-18.

that both local and toll markets are fully open. As Dr. Crandall indicates, “The only economic rationale for marketing regulations on the Bell companies would have to be based on a theory that the market for long distance services is imperfectly competitive because those companies enjoy the advantages of an information asymmetry.”³¹ Because no such advantage could possible be found,³² the Commission should stand back and let competition, the goal for which it has long striven, work.

The Notice asks under what circumstances marketing agreements should be permitted.³³ The Act permits all marketing agreements that do not violate some provision of the Act. Thus, it would prohibit a marketing agreement that made a BOC a provider of in-region interLATA service in violation of section 271(a).³⁴ That other marketing agreements — those that do not make the BOC the provider of the prohibited service — are permitted is not dependent on whether or not the BOC has in-region interLATA authority under section 271. And section 272 expressly provides that a BOC may market the interLATA services of its affiliate and that it may refuse to market another carrier’s services without violating the nondiscrimination requirements of that section.

A BOC is permitted to engage in all sorts of marketing activities on behalf of its section 272 affiliate. This includes in-bound and out-bound marketing programs, direct mail, bill inserts

³¹ Crandall Dec. ¶ 17.

³² “The probability that a consumer in Massachusetts knows that she could choose AT&T, WorldCom, Sprint, or Qwest as her long-distance carrier is significantly higher than the probability that she knows Verizon is an alternative to AT&T.” Crandall Dec. ¶ 3.

³³ Notice ¶ 15.

³⁴ See *AT&T Corp. v. US WEST Corp.*, 13 FCC Rcd 21438 (1998), *aff’d sub nom.*, *US WEST Communications, Inc. v. FCC*, 177 F.3d 1057 (D.C. Cir. 1999), *cert. denied*, 528 U.S. 1188 (2000).

and other marketing tools.³⁵ Nothing in the Act, and nothing in section 272, restricts these marketing practices.

The Notice asks whether a BOC should be permitted to offer discounts on local service in return for signing up with its affiliate.³⁶ Nothing in section 272, or any other section of the Act, prevents such arrangements. The popularity of wireless “bundles of minutes” plans demonstrate that distinctions between “local” and “long distance” are no longer meaningful and the Commission should not restrict carriers’ ability to offer such plans. Nor should there be any restriction on marketing activities. Informational and promotional marketing are manifestations of a competitive marketplace and benefit consumers through greater choice and lower prices. These are exactly the types of benefits which Congress wanted when it opened the long distance market to further competition in the 1996 Act.

The Commission Should Eliminate Any Requirement That LECs Read Lists of Interexchange Carriers to Their Customers.

“Equal access” did not include any requirement that BOC service representatives read lists of interexchange carriers to customers. That fact is obvious from the definition of “equal access” in the AT&T decree³⁷ and from the decree court’s explanation of what equal access included:

“The features of full equal access are: (1) dialing parity; (2) rotary dial access; (3) network control signalling; (4) answer supervision; (5) automatic calling number identification; (6) carrier access code; (7) directory services; (8) testing and

³⁵ See Notice ¶ 16. There is no need for the Commission to compile a list of permitted, or prohibited, marketing activities.

³⁶ Notice ¶ 16.

³⁷ And the decree’s lengthy Appendix concerning the implementation of equal access is silent as to the reading of lists.

maintenance of facilities; (9) provision of information necessary to bill customers; and (10) presubscription.”³⁸

And the Commission adopted this definition of “equal access” in 1985.³⁹

Rather, the Bell companies adopted the practice of offering to read such lists to assist their customers because of the special circumstances surrounding the introduction of equal access. When the BOCs began designing their equal access implementation process in 1983, AT&T was the only interexchange carrier that the vast majority of American consumers had ever heard of. This was the product of what the Commission characterized as AT&T’s “historical monopoly position.”⁴⁰ If a BOC service rep were simply to have asked a consumer to select an interexchange carrier, the only name that most customers would have been able to respond with spontaneously would have been “AT&T.” Moreover, the BOCs expected that many customers would express surprise that they were able to select a carrier and that they would ask the service rep what their choices were. For this reason, the BOCs undertook to have lists of carriers that provided service in the caller’s area and to periodically change the order of those lists.

The decree court adopted this practice in late 1983 as a condition of allowing the BOCs to continue to route to AT&T calls from customers who had failed to select an interexchange carrier at the time of the implementation of equal access.⁴¹ The Commission, of course, later ruled such “default” to AT&T was inconsistent with the Communications Act and required these non-

³⁸ *United States v. GTE Corp.*, 603 F. Supp. 730, 743 n.55 (D.D.C. 1984).

³⁹ *MTS and WATS Market Structure Phase III*, 100 F.C.C.2d 860 ¶¶ 56-59 (1985).

⁴⁰ *Investigation of Access and Divestiture Related Tariffs*, 101 F.C.C.2d 911 ¶ 22 (1985).

⁴¹ *United States v. Western Elec. Co.*, 578 F. Supp 668, 676-77 (D.D.C. 1983).

selecting customers be allocated among interexchange carriers. At that point, there was no longer any decree-related basis for the list-reading requirement.

The Commission recognized this practice in its ballot/allocation decision. In particular, the Allocation Plan the Commission adopted provided:

“Customer Initiated Changes In Service. If a customer moves or disconnects during the balloting process, he is handled by the LEC Business Office and normal service order procedures apply. If a customer only wishes to change his primary IXC, the Business Office will initiate the change and charge the customer the appropriate presubscription change fee. New customers are to be handled by the Business Office according to the LEC’s new customer presubscription procedures. These procedures should provide new customers with an opportunity to obtain a ballot and make an interexchange carrier selection.”⁴²

Faced with a concern that the last two sentences could be read to prevent a BOC from taking a new customer’s presubscription choice over the phone and to require the BOC to mail a ballot instead, the Common Carrier Bureau explained:

“The Order provides that new customers are to be handled by the Business Office according to the LEC’s new customer presubscription procedures. Allocation Order at para. 22. Such procedures should provide new customers with an opportunity to obtain a ballot. *Id.* We recognize that the LECs’ service order processing procedures might be unnecessarily delayed if they were obliged to await the return of the ballot before processing a new interconnection order. We conclude that the requirements of para. 22 are met when the LEC takes a verbal order for service and subsequently sends a confirmation notice to the customer. LEC personnel taking the verbal order should provide new customers with the names and, if requested, the telephone numbers of the IXCs and should devise procedures to ensure that the names of IXCs are provided in random order.”⁴³

The Commission did not require list reading in all circumstances — it was required only to “new customers.” The Bureau’s references to “new customers” did not include customers who

⁴² *Investigation of Access and Divestiture Related Tariffs*, 101 F.C.C.2d 911 App. B ¶ 22 (1985).

⁴³ *Investigation of Access and Divestiture Related Tariffs*, 101 F.C.C.2d 935 ¶ 40 (1985).

were moving to a different location, as the Commission's original order did not equate the two, as it dealt with customer moves in the first sentence of paragraph 22 and "new customers" in the last two sentences. Nor were BOCs required to offer to read these lists to other customers, such as customers calling to add a line to their existing service.⁴⁴

The practice of BOC service representatives' affirmatively informing customers of their presubscription options and having lists of carriers to read goes back to the introduction of equal access in 1984. The practice made perfect sense at that time — equal access and presubscription were brand new, and it was important to let customers know that they could choose a long distance company other than AT&T. The Commission adopted these requirements a year later when it extended equal access to other LECs.

A generation has passed since then. And a generation is a very long time in the telecommunications marketplace. Presubscription has been in place for years. "Clearly, consumers understand that they have a choice of carriers and exercise this choice in the increasingly competitive telecommunications marketplace."⁴⁵ Last year alone, Verizon processed more than 34 million carrier change requests. Industry reports have estimated the "churn" rate for all customers in the long distance market is as high as 31 percent per year.⁴⁶

⁴⁴ In 1996, the Commission, erroneously we believe, stated that the requirement already included customers moving to a new location. Referring to the requirements carried over from the AT&T decree, the Commission said, "A customer orders 'new service' when the customer either receives service from the BOC for the first time, or moves to another location within the BOC's in-region territory." *Nonaccounting Safeguards*, 11 FCC Rcd 21905 ¶ 292 (1996). This, of course, is not what the Commission said was required in 1985, and the decree-based requirement to offer to read lists, which was based on the BOC's defaulting to AT&T, ended when the Commission ended that practice.

⁴⁵ Crandall Dec. ¶ 20.

⁴⁶ Crandall Dec. ¶ 18.

Telecommunications carriers are among the largest advertisers in the country, spending billions of dollars every year to make sure that no consumer does not know who they are.⁴⁷ It is impossible to think that people who are bombarded with television commercials for long distance service and whose dinners are interrupted by IXC telemarketers do not know they may choose their long distance company and are not — often painfully — aware of whom there is to choose from.

Consumers will not be harmed by the elimination of the list reading requirement. They generally know what carrier they want before they call to order service. If the customer truly cannot select a carrier, they can call back when they have made a decision, without incurring any extra charges.

The list-reading requirement is not merely innocuous regulation:

“If a BOC is forced to advertise its competitor’s services to a potential customer, such a regulation will have two effects. First, a sales call will take longer to complete because the sales representative will be forced to name off a long list of competitors, thereby reducing the effectiveness of the call. Second, more sales representatives may have to be hired to serve an area, and the Bell company’s costs will therefore increase. These higher costs shrink prospective profits, thereby reducing the incentive for the company to market its service aggressively. Thus, consumer choice is restricted, and prices are higher than they would be under unfettered entry and marketing.”⁴⁸

“These two effects will reduce the prospective benefits to consumers.”⁴⁹

But this is not the full extent of the cost to consumers. While the actual customer inquiry and reading of the list may be time consuming in itself for the small percentage of instances when the customer actually requests that the list be read, the maintenance of the long distance

⁴⁷ Crandall Dec. ¶ 29-30.

⁴⁸ Crandall Dec. ¶ 26.

⁴⁹ Crandall Dec. ¶ 27.

carrier list is particularly excessive. What may appear to be a simple and relatively straightforward task of maintaining listings of available carriers is complex and costly. Lists need to be compiled and populated on the various systems supporting the customer service representative's interactions with the customer. These lists need to be continually updated, which requires monitoring of additions, deletions, name (and other) changes for a very large number of long distance carriers. These listings are maintained and updated for every state in which Verizon operates. Additionally, these listings require resequencing to insure that the lists are read in random order. These costs of the list maintenance are clearly significant, and are totally unnecessary.

Given today's marketplace, there is no reason to retain the existing requirements, and there is every reason not to extend them. The Commission, therefore, should no longer require the BOCs, or any LECs, "to provide information regarding all available IXCs" to customers seeking "new service." It should certainly not extend this requirements to customers requesting "additional lines."⁵⁰

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Notice ¶ 14.

Conclusion

The Commission should revamp its rules to recognize the vast changes in the telecommunications marketplace since the AT&T decree in 1982. The equal access provisions of that decree have been superceded by other rules and are no longer needed. When both local and toll markets are fully open to competition, the Commission need not regulate at all, and rules concerning marketing should be rescinded.

Respectfully submitted,


John M. Goodman

Attorney for the Verizon
telephone companies

1300 I Street, N.W.
Washington, D.C. 20005
(202) 515-2563
john.m.goodman@verizon.com

Michael E. Glover
Edward Shakin
Of Counsel

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ATTACHMENT A

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange and interexchange carriers affiliated with Verizon Communications Inc. These are:

Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance
Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon Select Services Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.