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June 16, 2003

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W. - Suite TW-A325
Washington, D.C. 20554

Re: *Ex Parte Presentation*
In the Matter of Rules and Regulations Implementing the Telephone
Consumer Protection Act of 1991, CG Docket No. 02-278

Dear Ms. Dortch:

On June 13, 2003, Sally McMahon and Karen Reidy of MCI, along with A. Richard Metzger, Jr. and Ruth Milkman of Lawler, Metzger & Milkman, counsel for MCI, met with Daniel Gonzalez, Senior Legal Advisor to Commissioner Martin to discuss the above-referenced proceeding. During the meeting, MCI discussed issues raised in its previous filings in this docket and provided Mr. Gonzalez with a copy of the attached presentation.

Pursuant to the Commission's rules, this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,



Ruth Milkman

Attachment

cc: Daniel Gonzalez



Considerations For Do-Not-Call Proceeding

Sally McMahon
Vice President, Consumer Affairs and Quality
MCI

June 13, 2003

FCC's Undertaking Is Considerably More Complex Than That Of The FTC

- The FCC's rules must be consistent with its multiple statutory mandates
- The FCC has the flexibility to act differently than the FTC
- FCC's rules must be carefully crafted to avoid unintentional harm to local competition

FCC's Do-Not-Call Rules Must Not Undermine Pro-Competitive Goals Of Act

- Goal of Telecom Act of 1996 is to promote competition for local telecommunications services
- The FCC and the states have worked for 7 years to advance local competition
- Implementation of the DNC Act should not create new obstacles for new entrants just as local competition is beginning to take hold

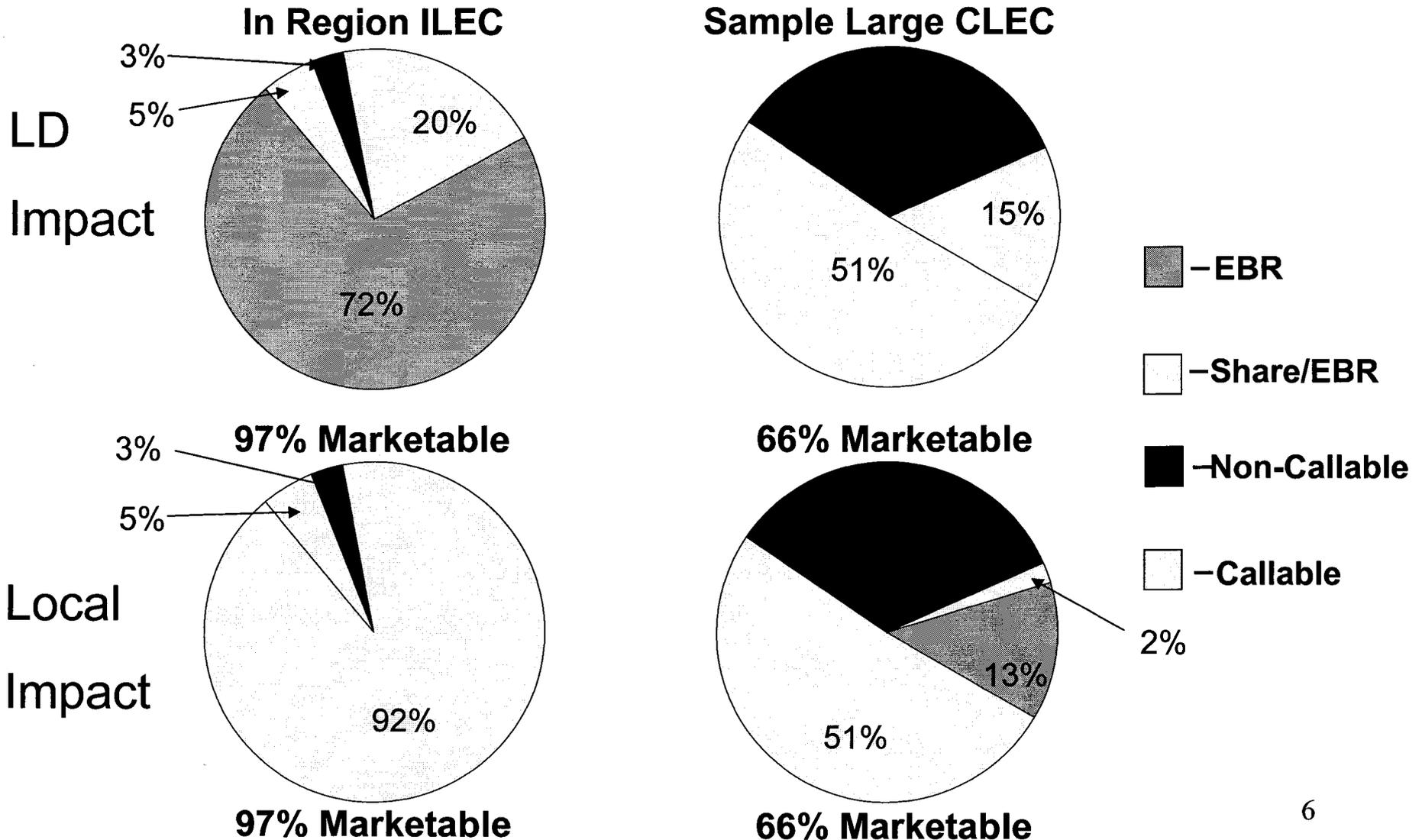
New Entrants' Ability To Reach Consumers Is Key To Promoting Local Competition

- The future of mass market competition is in bundled products, such as MCI's innovative Neighborhood offering and imitations like Variations
- Only 36 percent of consumers are aware that they have a choice of local carriers, even though 93 percent of U.S. households are in zip codes served by at least one competitor (NRRI survey)
- New entrants must actively work to educate the market about the benefits of local choice. To compete effectively, they must sell the bundles that consumers want and in a manner that encourages consumers to act
- Telemarketing is the predominant channel for educating consumers about MCI's offerings

Competitors Are Coming From Very Different Places

- The ILECs have overwhelming market share because of their large, monopoly-driven, embedded base of residential customers
- CLECs have much smaller shares of the residential market
- Differences play out in various ways
 - Established Business Relationship: ILECs have EBRs with 90% of all residential customers, while CLECs have EBRs with a much smaller number of customers
 - Company-specific do-not-call lists: Telemarketing is characteristic of competitive markets, not monopolies

EBR Rules Potentially Hand ILECs A Huge Advantage Due To Monopoly Heritage



* Assumes that 40% of households register for national DNC list; Does not factor in company-specific do-not-call list

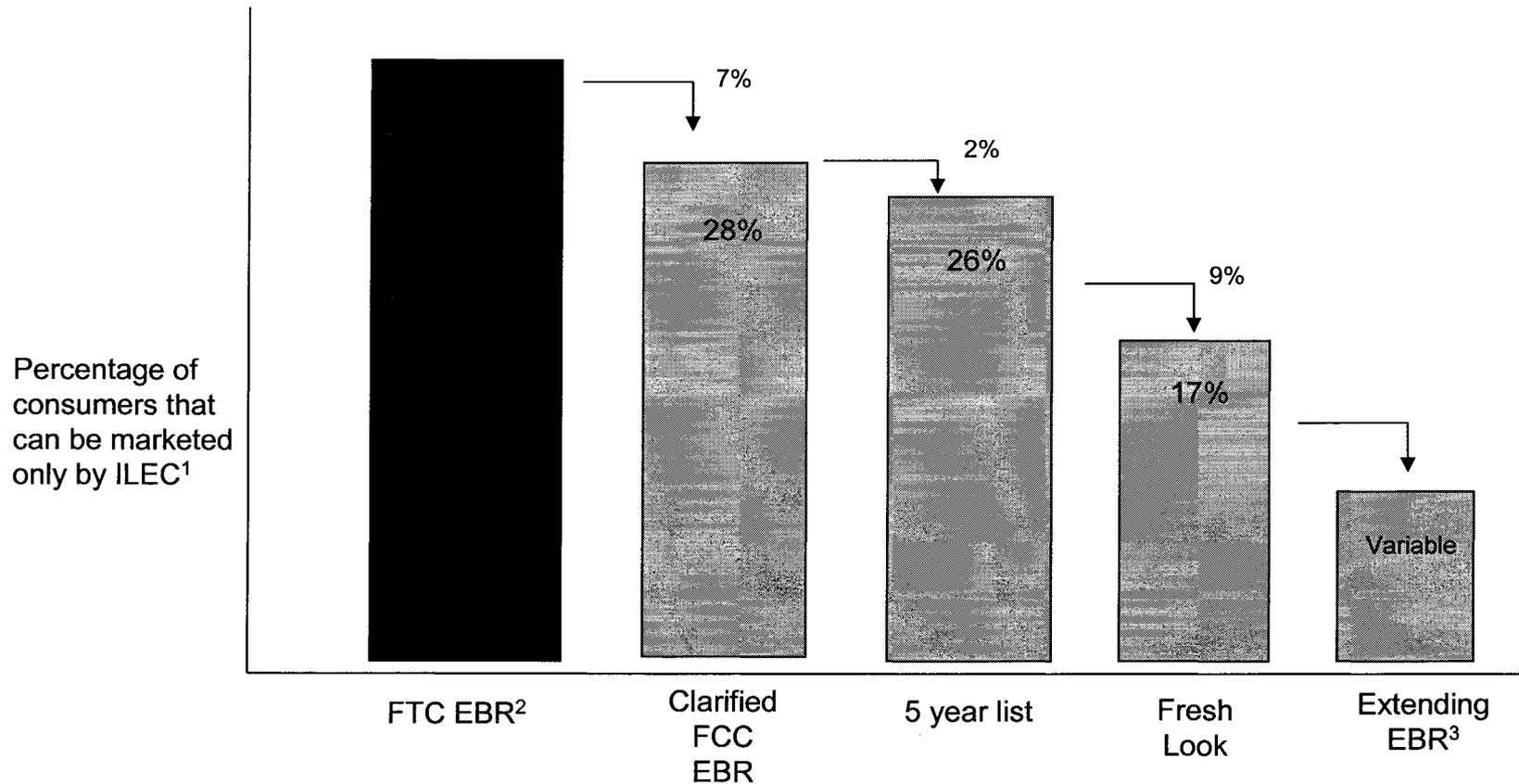
Modifying FCC EBR Definition Would Eliminate This Potential Monopoly Advantage

- The FCC can level the playing field by deeming competitive local service providers to have established business relationships with all residential subscribers until competition in the market is sufficiently developed
- This approach would advance FCC's statutory obligation to promote local competition, and is consistent with statutory framework that permits the FCC to treat local telephone service differently than other businesses

Alternatively, FCC Must Adopt Measures To Reduce Monopoly Advantage

- Established business relationship
 - Clarify existing FCC EBR rule: EBR is terminated only when a consumer asks to be put on a company's do-not-call list
 - Extend the EBR to include marketing partners for purposes of telemarketing joint offers
- Company-specific list
 - 5-year time limit
 - “Fresh look” for customers who have been on a LECs' company-specific list for more than 18 months

All Of These Measures Are Needed To Offset ILEC Monopoly Advantage



¹ Assumes 40% of households register for DNC list

² Factors in company-specific list

³ Effect of extending EBR depends on marketing partner

FCC Should Affirm Exclusive Jurisdiction Over Interstate Telemarketing

- Both the statutory language and legislative history of the TCPA make it clear that the Congress gave the FCC exclusive jurisdiction over interstate telemarketing calls
- If FCC fails to assert jurisdiction
 - States will seek to override the FCC's expert judgment and set *de facto* national standards
 - Customer confusion will arise from inconsistent state rules and disparate treatment of consumers based on their residency
- State laws and state do-not-call lists apply only to intrastate telemarketing calls

FCC Implementation Period Should Track That Provided By The FTC

The FCC's rules will apply to entities that were not affected by the FTC's rules, and therefore these entities should be given at least the same period to implement the FTC's rules

Proposed Implementation Schedule

Altering business rules to conform to new list requirements	9.5 mos.
Complying with abandonment rule for predictive dialers	9.5 mos.
Completing software and hardware upgrades for Caller ID	13 mos.

Other Issues

- List accuracy: A national list provides an opportunity to ensure that data is “clean” and accurate
 - Subscribers should register for themselves by telephone, using name and ANI
 - State lists should not be dumped into federal list
- Caller ID: It is unnecessary to address Caller ID in this proceeding
 - The DNC Act does not require action; the market will provide the best solution
- Predictive Dialers: Any regulation of predictive dialers must be reasonable
 - 5% abandonment rate over six-month period should serve as a safe harbor

Summary

- The FCC must recognize the potential for the do-not-call rules to impose a huge, unnecessary, competitive disadvantage for new entrants
 - The FCC should adopt rules that are competitively neutral not only in appearance, but in their effect
- The FCC should live up to its responsibilities to promote local competition by
 - Modifying its EBR rules
 - Establishing a fresh look for the company-specific lists
- The FCC should make clear that it retains exclusive jurisdiction over interstate telemarketing calls