**BEFORE THE**
# FEDERAL COMMUNICATIONS COMMISSION
**WASHINGTON, D.C. 20554**

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| **In re:** | ) | |
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| Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Consumer Information; and | ) | Dockets: 96-115, 96-98, 99-273 |
| | ) | |
| Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; and | ) | |
| | ) | |
| Provisioning of Directory Listing Information Under the Telecommunications Act of 1934, as amended; | ) | |

## MOTION FOR REVIEW AND RECONSIDERATION AND PETITION FOR RULEMAKING

*Introduction:*

On February 20, 2002, Cellular Directory Information, Inc. ("CDI") filed a *Request for Clarification and Rulemaking* petition (the "Original Petition") before the Federal Communications Commission. In the Original Petition, CDI requested the Commission clarify that (1) CMRS providers are considered local exchange providers, or initiate a rulemaking to include CMRS providers within the definition of a local exchange provider within the context of 47 C.F.R. §51.217 obligations, and (2) enter a ruling compelling wireless providers to provide non-discriminatory access for directory assistance providers to subscriber information.

At the time, the Commission denied CDI's Original Petition, without prejudice. CDI now seeks to reintroduce the topic to the Commission and provide additional support for the inclusion of wireless numbers into directory assistance, and wireless carriers into realm of local exchange providers.

Particularly, the Commission has now begun to recognize the ever increasing role and relationship of CMRS providers to national telecommunication networks, and has further begun to subject CMRS providers to the same requirements of local exchange providers. Even though the Commission did not directly find that CMRS providers are local exchange providers within the context of section 251(b) for the purposes of number portability, instead citing other broader regulatory authority, the requirement of W-LNP reasonably infers the Commission has begun to recognize CMRS providers within scope of a LEC, and therefore the CMRS providers should be subject to rules effecting directory listings and access to subscriber records.

*CMRS is a LEC Subset*

Even though the Commission, in its 1996 Report & Order (96-286), does not specifically include CMRS providers into the definition of a local exchange provider, with Commission opting to use a broader power to require W-LNP, section 251 could only apply upon the finding of CMRS providers being included within the scope of a LEC. And, further, since the Commission did not specifically determine a limited context, that is CMRS is a LEC within the scope of LNP, we argue CMRS has been shifted to a LEC subset, and CMRS providers are and should be held accountable to LEC standards *plus* CMRS standards.

CDI believes this is evident in the porting of landline numbers to wireless service providers. Now, telephone numbers that were listed are being transferred to wireless carriers and removed from DA databases. Additionally, some operators such as Vongage are using the pretense of being a broadband provider, rather than a local exchange provider, to escape industry regulation and inclusion of its subscribers into DA databases. This loophole is undermining an important asset to the telecommunications system and people of the United States of America.

CDI reiterates the important and necessity, both for safety and commerce, for there to exist a comprehensive telephone directory. CDI is including herewith as Exhibit "A", a report of its Chief Executive Officer, Eric J. Glazier, on the growth of mobile communications. We believe the Commission will find the arguments outline therein compelling and supportive of our claims.

CDI would also like to reiterate that directories are not assembled for consumer marketing; federal law clearly prohibits use for such a purpose. Additional recent regulatory changes have provided a new arsenal to consumers and regulators alike to prevent unsolicited marketing. Moreover, several changes in directory assistance can be implemented, such as only connecting the call, but not releasing the number. CDI is open to a full discussion on the topology and architecture of any comprehensive DA database.

*Directory Assistance Increases Competition*

Lastly, directory assistance containing mobile numbers will ultimately benefit consumers and stimulate intense industry competition. Unlike W-LNP, which does not add subscribers or drive usage, our estimates indicate that adding wireless to DA databases will result nearly 36 billion minutes of additional peak talk time, or about $4B at current rates. The economic consequences of additional usage will force (in the short, mid, and long-run) wireless providers to provide higher peak hour calling at discounted rates. As increased competition and consumer benefits were the congressional intent in passing the Telecommunications Act of 1996, it should also serve as further reason and support in the Commission adopting rules requiring non-discriminatory access to wireless subscriber information.

WHEREFORE, the above stated reasons, Cellular Directory Information, Inc. requests the Commission REVERSE its September 6, 2002 denial of CDI's Petition, and ORDER non-discriminatory access to CMRS subscriber data, in a manner so determined by the Commission.

Cellular Directory Information Inc.
By its Chairman and Chief Executive Officer
Signed and Verified:

Eric James Glazier
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