

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Rules and Regulations Implementing)
Minimum Customer Account Record)
Exchange Obligations on All Local and) CG Docket No. 02-386
Interexchange Carriers)

Comments of CompTel/ALTS

CompTel/ALTS¹, by its attorney, hereby files its comments in the above-referenced proceeding in response to the Commission’s Further Notice of Proposed Rulemaking.² The Commission opened this rulemaking proceeding to address issues raised in an *ex parte* presentation filed by BellSouth in this docket.³ Having adopted mandatory customer account

¹ CompTel/ALTS is the leading industry association representing competitive communications service providers. CompTel/ALTS members are entrepreneurial companies building and deploying next generation, IP-based networks to provide competitive voice, data, and video services in the United States and around the world. CompTel/ALTS members share a common objective: advancing communications through innovation and open networks.

² Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, CG Docket No. 02-386, Notice of Proposed Rulemaking, FCC 05-29 (rel. Feb. 25, 2005).

³ BellSouth *ex parte* filing in CG Docket No. 02-386, October 28, 2004, at 11 (“BellSouth recommends that the Commission issue a Further Notice of Proposed Rulemaking addressing the local-to-local EUM issue when it issues an order in CG 02-386 regarding minimum CARE standards.”). *See also FNPRM* at ¶ 77 (“We seek comment on the issues identified by BellSouth.”).

record exchange (CARE) rules for the migration of a customer between interexchange carriers, the Commission now seeks comment on whether mandatory minimum federal standards should apply to a customer migration between local exchange carriers. CompTel/ALTS submits that the issues discussed in the FNPRM have not been shown to be widespread throughout the industry (and indeed were raised in a single *ex parte* from an incumbent carrier that stands to benefit from new federal rules), and thus the Commission should not adopt sweeping regulation that will impose unnecessary burdens and costs on all carriers and their customers. Furthermore, as discussed in greater detail below, even BellSouth admits that issues related to local phone service are being handled by state commissions where necessary, thus obviating the need for the federal regime proposed by BellSouth.⁴

CompTel/ALTS members have long experience dealing with the problems of access to the necessary operations support systems (OSS) and related database and customer information necessary to market to, and acquire, customers. Indeed, Congress was acutely aware that incumbent local exchange carriers (incumbent LECs) would have no incentive to provide requesting carriers with the customer information necessary to facilitate competitive entry. To address that concern, Congress required Bell Operating Companies to provide certain customer record information that

⁴ As discussed below, state commissions have longstanding experience and expertise – and, of course, express jurisdiction – to resolve issues related to local telephone service such as those raised by BellSouth in this proceeding.

must be passed between carriers in order to allow for appropriate billing and customer service.⁵ The imposition of such a requirement was appropriate, given the ability and incentive of Bell companies to block new entrants from acquiring customers.

BellSouth now urges that the Commission impose such rules on competitive carriers, who have neither the ability nor incentive to refuse to interconnect with other providers. The timing of BellSouth's request is transparent – having convinced the FCC to massively scale back unbundling rules that support competitive entry, BellSouth is now poised to cut off CLEC customers and reassimilate them into the Bell network. But the fact that BellSouth will soon be shutting off CLEC customers does not mean that imposition of a new and unnecessary regulatory regime is appropriate. Rather, the Commission should recognize that the competitive community has always provided the necessary access to information – including information denied by the ILECs themselves – pursuant to industry standards. As such, the Commission should not impose millions of dollars of operational costs on carriers and their end user customers to solve a problem that does not exist.

CompTel/ALTS members voluntarily provide information necessary to facilitate customer migrations. CompTel/ALTS member Eschelon provides an illustrative example. Eschelon, a Minnesota-based provider of voice and

⁵ *See, e.g.* 47 U.S.C. § 271(c)(2)(B)(ii) (requiring Bell companies to provide nondiscriminatory access to network elements, and thus to operations support systems and related customer databases, in order to obtain long distance authority).

broadband services, posts all necessary information for subscriber migrations on its web site.⁶ Eschelon accepts industry-standard customer service record (CSR) requests from authorized carriers electronically, and includes all necessary information on its web page to facilitate customer migrations. Eschelon also provides information regarding local number portability requests, including contact information (names and phone numbers) of specific Eschelon employees for expedite and escalation requests. This information goes far beyond what a Bell company would ever provide to a requesting CLEC, notwithstanding the fact that the Bells are required by law to do so. Moreover, Eschelon and other CompTel/ALTS members provide such industry-standard information and procedures because, unlike the Bells, they lack any incentive or ability to abuse the market power they do not have.

Similarly, Conversant Communications, a New England-based provider of voice and broadband services, provides information on its website for carriers regarding number porting, CSR requests, expedite procedures, and similar information.⁷ Like Eschelon, Conversant provides name and phone number information for specific contact should intervention or escalation be necessary. Cavalier Telephone, a CompTel/ALTS member with particular focus on the residential market, provides clear instructions on its

⁶ See generally Eschelon support and carrier information, available at http://www.eschelon.com/support/section_index.aspx?SelectCatID=3254&catID=3254 and http://www.eschelon.com/support/section_index.aspx?SelectCatID=3254&catID=3254.

⁷ See Conversant Carrier Support at http://www.conversent.com/website/cs/carriers_porting.asp.

web site – again including specific contact information for Cavalier employees with responsibility for migrations.⁸ These are but a few of many examples of CompTel/ALTS members utilizing industry standard procedures, even in the absence of a regulatory mandate, to compete fairly in the marketplace.⁹ Congress predicted correctly that Bell companies would refuse to provide information necessary to permit customers to change their local carrier. No such prediction was made as to new entrants, nor would it have been necessary, because marketplace evidence demonstrates conclusively that CLECs are using standard industry practices to facilitate customer migrations.

BellSouth argues to the Commission that the “advent of local number portability” has meant that carrier to carrier migrations “are not seamless.”¹⁰ But BellSouth ignores the fact that *all* local exchange carriers are required to provide number portability pursuant to the Commission’s rules – not just incumbent LECs.¹¹ As such, the imposition of new federal rules as proposed by BellSouth would duplicate the existing obligation on all local exchange carriers to provide local number portability. Moreover, the Commission

⁸ See Cavalier Procedures for Competing Carriers requesting Customer Service Records, available at <http://www.cavtel.com/company/tarriffs/index.shtml>.

⁹ See, e.g. MPower’s CSR and LSR Portout Process at 1 (“Mpower will be happy to expedite orders when the customers phone service is being affected. Please send all expedite requests to the above email addresses and cc Supervisor Cathy Pope @ cpope@mpowercom.com and the Manager Karen McFarland @ kmcfarland@mpowercom.com. All CSR and LSR emails should have the customer name and BTN in the subject line of the email. It is the responsibility of the requesting company to be certain CSR/LSR is sent to the proper mailbox. The Toll Free TN for information is 1-800-354-1047.”).

¹⁰ See FNPRM at ¶ 74.

¹¹ 47 U.S.C. § 251(b)(2) (imposing on “all local exchange carriers” the “duty to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the Commission.”).

declined to adopt specifically federally mandated performance metrics for the exchange of information between LECs and IXC's. Given that recent determination, it would be difficult for the Commission to justify imposing such performance metrics on CLECs for local customer migrations.¹²

CompTel/ALTS urges the Commission not to mandate a rigid format or submission procedure that would unduly burden smaller carriers, especially those that may process few of these transactions. For example, CLECs should not be required to implement an automated electronic data transfer with other carriers, which would be very costly without any concomitant benefit. Rather, competitive carriers should have the flexibility to pass the appropriate data to other carriers via the arrangements that work best for the carriers involved.

Some CompTel/ALTS members do currently participate in CARE, but they may not currently utilize the specific codes and processes that BellSouth would like to use. Other CompTel/ALTS members do not specifically participate in CARE but exchange customer record information in some other format, according to their needs and those of other carriers. These CLECs should not be required to change the processes they have already established with other carriers unless and until a concern has been raised about those specific processes, which is not the case in this proceeding. The concerns that

¹² See CARE Order at ¶ 61 (requiring carriers to provide notifications “without unreasonable delay”); *id.* at ¶ 62 (requiring carriers to “ensure that the data transmitted is accurate”); *id.* at ¶ 63 (encouraging carriers to bring any inaccurate or untimely responses “to our attention through appropriate enforcement processes”).

BellSouth raises deal primarily with the hypothetical situation of carriers who do not exchange any information with other carriers. Rather than imposing a mandatory CARE process on all carriers, even those who currently use other processes without complaint, the Commission should instead rely on its existing rules, which require that carriers exchange certain mandatory data, but not through a specific mandatory process.

Rather than attempt to mandate a particular format for data exchange, the Commission should limit this proceeding to identifying the critical data to be exchanged in order to fill information gaps or to avoid fraud or abuse of service. If a problem arises, the Commission could remind carriers that failure to share information in such cases could be deemed an unreasonable act under Section 201(b).¹³ In this way, the Commission and carriers would have adequate means of enforcement in a complaint proceeding, which is the appropriate vehicle for handling individual concerns.¹⁴ The Commission should not here overly regulate and burden the entire industry simply to curb the activities of bad actors, should they arise. Instead, it should expect and require that those issues be addressed in complaint proceedings, where specific factual data can be reviewed.

To the extent the Commission does choose to mandate certain CARE requirements, it should only require carriers to abide by industry-wide standards developed in the OBF forum. It should rely on OBF to develop the

¹³ 47 U.S.C. § 201(b).

¹⁴ See CARE Order at ¶ 63.

detailed standards because it is an industry consensus-based standards setting body, better equipped to accurately determine the minimum information to be exchanged. OBF also has the flexibility to alter its requirements as conditions and experience warrant without a Commission rulemaking process. The OBF maintains a broad and evolving list of useful codes, and carriers are free to implement only those codes that are appropriate and necessary to their circumstances, and the Commission should maintain that flexibility.

The industry-run OBF is an appropriate forum to assess if there is a pervasive information-exchange “problem” in the industry that needs resolution. The Commission notes BellSouth’s argument that FCC intervention is necessary because OBF has not resolved all of BellSouth’s concerns. However, that fact may speak for itself, indicating that the problem is not as pervasive as BellSouth claims, for if it were, surely the industry participants in OBF would work to solve it. Moreover, BellSouth itself notes that, where state commissions have found potential problems with local migration issues, those states (best equipped to handle local exchange carrier migration issues) have adopted rules.¹⁵

Furthermore, CompTel/ALTS urges the Commission not to develop performance measurements for any minimum CARE standards it may adopt until carriers have had ample opportunity to fully implement the

¹⁵ See BellSouth October 28, 2004 *ex parte* at 2 (citing state migration proceedings in New Hampshire, Illinois, Texas, and Oregon).

requirements and the Commission determines that such performance measurements are necessary. As discussed above, the concerns raised by BellSouth are not pervasive throughout the industry, thus it is unnecessary to adopt mandatory CARE requirements. If the Commission does decide to adopt such requirements, however, it is clearly unnecessary at this time to develop performance measurements to further burden all carriers in order to address concerns that apply to a small number of industry participants.

In sum, the Commission could focus this proceeding on identifying the critical data that carriers must exchange to ensure proper billing and customer service, but not adopt mandatory requirements regarding the data format or process of transferring this data. Evidence in this proceeding does not support a claim that BellSouth's concerns are industry-wide, thus the Commission should not adopt rules that will adversely impact many carriers and impose costs on consumers and small businesses. Instead, it should consider options that satisfy the specific concerns raised, if any are found to be legitimate, while imposing the least burden on carriers and their customers.

Respectfully submitted,

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