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### COMMON CARRIER ACTION

#### FCC Adopts Rules and Proposes Measures to Promote Competition in Directory Publishing and Directory Assistance

The FCC took several actions yesterday to foster competition in directory publishing and directory assistance. The FCC addressed both directory publishing and directory assistance in this decision to ensure consistent policy regarding the rights of competitors to obtain the names, addresses, and telephone numbers of subscribers to local exchange carriers (LECs.) The standards adopted in this proceeding will benefit consumers and advertisers by promoting the development of a directory publishing industry characterized by innovation, customer service, and vigorous competition.

#### Directory Publishing

Section 222(e) of the Communications Act requires carriers that provide telephone exchange service to provide subscriber list information to any directory publisher on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions. Subscriber list information includes customers' names, addresses, and telephone numbers and, for business customers, the headings under which they are listed in the yellow pages.

In this proceeding, the FCC concluded that section 222(e) obligates all telecommunications carriers, including competitive LECs, to provide this information to directory publishers. The FCC held, however, that carriers are not obligated to provide subscriber list information of customers of other LECs. In addition, the FCC promulgated the following standards regarding carriers' obligations:

- carriers must provide requesting directory publishers with updates to subscriber list information reflecting changes in telephone exchange service; however, carriers are not required to provide the names or addresses of subscribers with unlisted or unpublished numbers;
- carriers must provide subscriber list information to requesting director publishers at the same rates, terms, and conditions that the carrier provides the information to itself, its directory publishing affiliate, or another directory publisher;
- provided they are given thirty days notice, carriers must provide subscriber list information at the time and in the format it is requested, to the extent their internal systems permit.

The FCC also set out presumptively reasonable rates for subscriber list information. The FCC concluded that \$0.04 per listing constitutes a presumptively reasonable rate for subscriber listings and that \$0.06 per listing constitutes a presumptively reasonable rate for updates of such listings. The FCC did not mandate these rates, but did apprise carriers to be prepared to justify higher rates, if a directory publisher files a complaint.

#### Directory Assistance

Section 251 (b) (3) of the Communications Act requires carriers to provide nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listings with no unreasonable dialing delays. The FCC

affirmed its requirements that LECs offer their competitors access to telephone numbers, operator services, directory assistance, and directory listings equal to the access that the LEC provides to itself. Such LECs bear the burden of proof that they are offering nondiscriminatory access.

The FCC further required each LEC to provide access to adjunct features (e.g., rating tables or customer information databases) related to the provision of operator services and directory assistance services. The FCC also precluded LECs from negotiating exclusive contracts with third party vendors for such adjunct features that would prevent competing providers from negotiating agreements with the vendors for those services.

In addition, the FCC required that, upon request, a LEC must provide access to its directory assistance services (including databases) and to its directory listings in any format the competing provider specifies, if the LEC's internal systems can accommodate that format. In addition, a LEC must supply updates, if requested, in the same format as the original transfer and at the same time that it updates its own information.

The FCC declined to modify the LECs' obligations to rebrand the traffic of interconnecting carriers and resellers. The FCC also reaffirmed that the benefits of this obligation are to be extended to all competing providers of telephone exchange service and telephone toll service, including resellers. The FCC concluded that any failure to rebrand the competitor's traffic is presumptively discriminatory and that the burden will be on the providing LEC to demonstrate that it is technically infeasible for it to arrange its network architecture to allow to brand competitor's traffic.

Notice of Proposed Rulemaking.

Finally, the FCC invited comment on issues relating to Internet directories, including whether section 222(e) entitles Internet directory provider to obtain subscriber list information from carriers for use in those directories. The FCC also invited comment on extending nondiscriminatory access provisions to directory assistance providers that are neither telephone exchange service providers nor telephone toll service providers. The FCC also sought comment on issues relating to the development of national directory assistance, including whether all LECs providing that service must provide nondiscriminatory access to nonlocal listings pursuant to section 251(b)(3).

Action by the Commission, August 23, 1999, by Third Report and Order, Second Order on Reconsideration, and Third Further Notice of Proposed Rulemaking (FCC 99-227). Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani, with Commission Ness issuing a statement and Commissioner Furchtgott-Roth dissenting in part and issuing a separate statement.

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