

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

In the Matter of	)	
	)	
Rules and Policies Regarding	)	CC Docket No. 91-281
Calling Number Identification	)	
Services -- Caller ID	)	

**MEMORANDUM OPINION and ORDER**

**Adopted:** September 25, 1997

**Released:** September 25, 1997

By the Chief, Network Services Division:

**I. INTRODUCTION**

1. This *Memorandum Opinion and Order (Order)* addresses a petition filed by Ameritech.<sup>1</sup> Ameritech requests a temporary limited waiver of the requirement that, by September 25, 1997, carriers disable automatic call return (ACR) services when the calling party has requested that the calling party number (CPN) not be passed.<sup>2</sup> Ameritech initially requested this waiver for twelve of its Lucent Technologies IAESS switches in the Chicago local access transport area (LATA), and requested that it have until January 31, 1998 to comply with the ACR blocking requirement. Ameritech subsequently reduced the number of switches for which it requested a waiver to nine.<sup>3</sup> For the reasons discussed below, Ameritech's request is granted.

**II. BACKGROUND**

2. On May 5, 1995, the Commission affirmed and established rules governing the

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<sup>1</sup> Ameritech Petition for Temporary Waiver, filed on June 10, 1997 (Ameritech Petition).

<sup>2</sup> In the Matter of Rules and Policies Regarding Calling Number Identification Service -- Caller ID, *Third Report and Order, Memorandum Opinion and Order on Further Reconsideration, and Memorandum Opinion and Order on Reconsideration*, CC Docket No. 91-81, FCC 97-103 (rel. March 25, 1997) (*Third Report and Order*) at para. 60. Callers dial "\*69" to activate automatic call return, and ACR allows a called party to dial "\*69" to return the call from the most recent calling party..

<sup>3</sup> Letter from Anthony Alessi, Ameritech, to Geraldine Matise, Network Services Division, Federal Communications Commission (Aug. 15, 1997).

passage and use of a caller's telephone number.<sup>4</sup> These rules, which apply to wireline telephone companies and cellular carriers, became effective on December 1, 1995. Under these rules, that apply to interstate calls, callers dialing \*67 before dialing a particular number will prevent their number from being transmitted to the called party. Additionally, where state policy permits, the Federal Communications Commission allows telephone companies to offer per line blocking, provided that a telephone company recognizes \*82 as the first three digits dialed as a per call request that a caller's telephone number be revealed. With per line blocking, once a caller requests this option from his or her telephone company, all calls from the line are automatically blocked.

3. In the *Second Report and Order*, the Commission addressed the application of its caller ID rules to other CPN-based services such as ACR.<sup>5</sup> The Commission concluded that, where ACR is used, callers requesting that their number not be revealed should be able to block the ACR feature. Absent the ability to block ACR, ACR could provide information about the calling party that the calling party does not wish to reveal.<sup>6</sup> On reconsideration, the Commission affirmed its decision and notified carriers that, by September 25, 1997, carriers must ensure that ACR not violate the calling party's privacy.<sup>7</sup>

### III. PETITION

4. In its petition, Ameritech requests that it be granted an additional four months to comply with the Commission's ACR blocking requirement. Ameritech states that its waiver request is necessitated "by conflicting work being performed on IAESS switch software necessary to implement local number portability (LNP)," as well as the complex nature of LNP and ACR blocking installation.<sup>8</sup>

5. According to Ameritech, the complex nature of LNP and ACR blocking installation prevents simultaneous installation of these respective features. Ameritech explains that the IAESS switches being upgraded to support LNP require an Automatic Message Accounting Standard Entry/Multi-Entry Teleprocessing System (AMASE/METS). The AMASE/METS, which consists of a combination of hardware and software, can only be added while the IAESS uses generic software; further, installation of certain features of the

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<sup>4</sup> In the Matter of Rules and Policies Regarding Calling Number Identification Service -- Caller ID, *Second Report and Order, Third Notice of Proposed Rulemaking*, 10 FCC Rcd 4364 (1995).

<sup>5</sup> In the Matter of Rules and Policies Regarding Calling Number Identification Service -- Caller ID, *Third Report and Order, Memorandum Opinion and Order on Reconsideration, Second Report and Order and Third Notice of Proposed Rulemaking*, 10 FCC 11700 (1995) (*Second Report and Order*) at 11743, para. 121.

<sup>6</sup> *Id.* at 11747, paras. 132-34.

<sup>7</sup> *Third Report and Order* at para. 60.

<sup>8</sup> Ameritech Petition at 1-3.

AMASE/METS requires reloading of the generic software and requires engineering time at Ameritech and the vendor. As for ACR blocking, Ameritech states that in newer digital switches, the ACR block feature is inherent to the software in the newer switches and can be activated by a password provided by the vendor either verbally or via download.<sup>9</sup> For its 1AESS analog switches, however, Ameritech states that ordering and loading the ACR block feature is a more time consuming process because it must be separately ordered and loaded and requires engineering time at Ameritech and its vendor.<sup>10</sup> Accordingly, Ameritech contends that it is unable to meet the September 25, 1997 deadline because it cannot modify its AMASE/METS work to include ACR blocking given the complexity of the work being performed.

6. In its petition, Ameritech states that twelve 1AESS switches would fail to meet the September 25, 1997 deadline. In a letter supplementing its petition, Ameritech amended its initial projection by stating that nine, rather than twelve, 1AESS switches would not meet the September 25, 1997 deadline.<sup>11</sup> In light of this change, Ameritech now states that the number of lines served by the remaining nine switches constitutes only 9 per cent (5,974,600 lines) of the total number of lines required to access ACR blocking capability.<sup>12</sup> The supplemental letter also provides an implementation schedule listing the dates by which the remaining nine switches will be brought into compliance. Ameritech states that only five switches will be non-compliant by the end of October; four switches will be non-compliant by the end of November; two switches will be non-compliant by the end of December; and all nine will be compliant by January 24, 1998. According to this schedule, by the end of October only 5.4 per cent of the lines requiring ACR blocking capability will lack such capability; 4.6 per cent by the end of November; and 2 per cent by the end of December. Finally, Ameritech adds that only 0.1 per cent of its ACR calls are intraLATA interstate; the Commission's caller ID rules only apply to interstate calls.

#### IV. DISCUSSION

7. Ameritech's request is granted. Pursuant to section 1.3 of the Commission's rules, the Commission may waive any provision of its rules, in whole or in part, if good cause

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<sup>9</sup> Petition at 2. Ameritech estimates that it would take 45-50 days after the vendor receives the order to activate the ACR block feature on its digital switches. *Id.*

<sup>10</sup> Ameritech states that 1AESS switch upgrades to LNP require that the switch not be loaded with the software necessary to disable ACR.

<sup>11</sup> Letter from Anthony M. Alessi, Ameritech, to Geraldine Matise, Network Services Division, Federal Communications Commission (Aug. 15, 1997).

<sup>12</sup> In its petition, Ameritech stated that the twelve 1AESS switches represent 14% of the lines required to have blocking software. Ameritech Petition at 3.

is shown.<sup>13</sup> An applicant seeking a waiver of a rule must plead with particularity the facts and circumstances that warrant such action, and show how such a deviation from the general rule will serve the public interest.<sup>14</sup> Consistent with *Wait Radio* and *Northeast Cellular*, the Bureau has granted waivers regarding other caller ID requirements where carriers have made a good faith effort to secure the needed software upgrades and show why the requested waiver period is necessary.<sup>15</sup>

8. The Bureau finds that the installation of LNP software creates a special circumstance that warrants a waiver of the Commission's ACR blocking rules, and that such waiver will serve the public interest. Ameritech's petition is specific in stating that the software changes required for LNP were scheduled prior to the release of the *Third Report and Order* and, consequently, cannot be installed simultaneously with ACR blocking due to the installation requirements of the 1AESS switch. Ameritech contends, and the Bureau agrees, that it would be disruptive to halt or undo LNP installation currently in progress solely for the purpose of achieving the ACR blocking deadline. Granting Ameritech this waiver, however, should not affect a large number of its customers; nor should it result in undue delay of the protection provided by ACR blocking. It is also significant that Ameritech has provided a schedule by which the remaining nine switches will be brought into compliance because the schedule strongly suggests that Ameritech has a specific plan to upgrade software and, in some cases, has begun software installation. The Bureau finds that Ameritech's schedule is reasonable.

9. Accordingly, Ameritech's request is granted and Ameritech is ordered to comply with the Commission's ACR blocking requirement by January 24, 1998. The Bureau cautions Ameritech that failure to comply with the ACR blocking requirement may result in enforcement proceedings.<sup>16</sup> To assist in monitoring Ameritech's compliance with the Commission's rules, the Bureau requires Ameritech to file progress reports with the Network Services Division on October 31, 1997 and December 15, 1997. These reports may be in the form of a letter, and shall contain the following information: (1) the status of 1AESS switch upgrades; and (2) an updated implementation schedule, with explanation of any failures to meet the previous schedule and corrective action being taken.

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<sup>13</sup> 47 C.F.R. § 1.3; see also *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (waiver appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest); *Wait Radio v. FCC*, 418 F.2d 1153, 1157 (1969).

<sup>14</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d at 1164, 1166.

<sup>15</sup> See *In the Matter of Rules and Policies Regarding Calling Number Identification Service -- Caller ID*, Memorandum Opinion and Order, CC Docket 91-81, DA 96-2178 (1996). Network Services Division granted \*82 unblocking waivers to Pond Branch Telephone Company; Twin Lakes Telephone Cooperative Corporation; Sioux Valley Telephone Company; Hills Telephone Company; Craw-Kan Telephone Cooperative, Inc.; and Northland Telephone Company of Vermont.

<sup>16</sup> 47 U.S.C. §§ 501, 502, 503(b).

**V. ORDERING CLAUSES**

10. Accordingly, IT IS ORDERED, pursuant to the authority delegated in Section 0.91 of the Commission's rules, 47 C.F.R. § 0.91, Section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, Section 64.1601(b) of the Commission's rules, 47 C.F.R. § 64.1601(b), and Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that Ameritech's petition for waiver of the Commission's Automatic Call Return blocking requirement IS GRANTED.

11. IT IS FURTHER ORDERED, that Ameritech file progress reports with the Network Services Division as described by this Order.

12. IT IS FURTHER ORDERED, that this order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

*Geraldine A. Matis*

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