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March 21, 2000

Lawrence C. Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Mr. Strickling:

In less than four months, the NANPA Oversight Working Group will begin preparations for selection of the next administrator of the North American Numbering Plan. As you know, the term of NeuStar as NANPA expires in November 2002. Pursuant to its charter, the NANC is committed to conducting a fair and competitive process to assist the Commission in selecting the next NANPA.

I write to you now to seek clarification of an issue that threatens the fairness of the future NANPA selection process. Section 52.13(g) of the Commission's rules governs the transfer of intellectual property and associated hardware from the current NANPA to any successor NANPA. It has become clear that NeuStar's interpretation of this rule is substantially narrower than the interpretation favored by some. Without clarification of this rule, it will be impossible for the NANC to specify for alternative bidders the intellectual and physical property that would transfer upon selection of a party other than NeuStar. The consequent uncertainty may deter participation in the selection process.

The rule states:

Transfer of intellectual property. The new NANPA must make available any and all intellectual property and associated hardware resulting from its activities as numbering administrator including, but not limited to, systems and the data contained therein, software, interface specifications and supporting documentation and make such property available to whomever NANC directs free of charge. The new NANPA must specify any intellectual property it proposes to exclude from the provisions of this paragraph based on the existence of such property prior to its selection as NANPA.

According to NeuStar, this rule means that only intellectual property created by or for NANPA, and equipment modified to run that intellectual property are transferable. NeuStar maintains that the only property that actually exists that falls within this rule is

software custom-developed specifically to support NANPA functions. NeuStar does not believe that the rule requires transfer of commercial, off-the-shelf hardware or software used in NANPA operations. NeuStar understands “associated hardware” to include only hardware that embodies NANPA intellectual property (e.g., where custom-developed software is “burned” into the design of a chip).

Another interpretation of this rule, suggested by members of the Oversight Working Group, holds that all intellectual property obtained by NANPA and all equipment used in conjunction with such property, are potentially transferable if obtained subsequent to Lockheed Martin CIS’s (NeuStar’s corporate predecessor) selection as the NANPA. This would include not only custom-developed software, but also commercial, off-the-shelf software to which NeuStar has a license, as well as off-the-shelf hardware used to run either type of software.

Whatever property is actually transferable, there is uncertainty regarding the nature of the property interest transferred and what, if any ownership rights are retained by NeuStar. According to NeuStar, the transfer will consist of a license granted to the successor NANPA, with NeuStar retaining ownership of, and use rights to the property itself. Other parties have suggested that the NANC or another designee of the Commission could receive title to and full ownership of any and all NANPA intellectual and associated physical property. The NANC, or whatever party is designated, could then transfer use rights to the successor NANPA. That party could also license NeuStar or other entities to use intellectual property for other purposes. It is possible that the Commission could decide, at least with respect to intellectual property, that it is unnecessary at this time to clarify this aspect of the rule and determine the nature of the property interest to be transferred.

Development of a fair, competitive selection process for the next NANPA depends on resolution of these varying interpretations of 47 C.F.R. § 52.13(g). The NANC respectfully requests that the Commission clarify the meaning of this rule.

Sincerely yours,

John R. Hoffman

Cc: Christopher Wright