

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. fax	List of attendees for October 1 meeting at the Old Executive Office Building [partial] (1 page)	Sep. 20, 1993	b(6)

COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Michael Schmidt
 OA/Box Number: 7349

FOLDER TITLE:

Association of Directory Publishers

2013-0968-S

sb63

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Association of Directory Publishers

PHOTOCOPY
PRESERVATION

DATE: October 8, 1993
TO: Mike Nelson, Office of Science and Technology Policy
FROM: Mike Schmidt, Domestic Policy Council
RE: Meeting with the Association of Directory Publishers

Last week I met with representatives of the Association of Directory Publishers (ADP). ADP, which is composed of independent telephone directory publishers, had written to Carol Rasco to complain about the anti-competitive activities of the Bell Operating Companies (they are selling their lists of subscriber information to ADP members for far more than market price, while the Bell telephone directory companies get the information for free). In that letter, they asked to meet with Carol to discuss the issue in more detail, especially as it relates to the Administration's planned Information Highway Initiative. Carol asked me to meet with them in her place.

I know that your office (along with the Office of the Vice President) is taking the lead on the Information Highway Initiative and passed that information along to the ADP reps before setting up a meeting (and during the meeting as well). I also tried to contact the Office of the Vice President to have someone from their staff sit in on the meeting, and they suggested that I contact you. Unfortunately, I was not able to get in touch with you before the meeting. I apologize for that.

I have attached a position summary from ADP that you may be interested in. They seem to have a strong case against the Bell Operating Companies, and their arguments raise some important issues that I assume the Administration's Information Highway Initiative will eventually have to deal with. The ADP reps at the meeting really didn't go into much more detail than the information presented in this summary (although I now am well versed in the history of the ADP!).

Please give me a call at X2165 if you want any more details about the meeting.

ADP Meeting

- Reasonable access to white pages access
- Markey Bill
- 200 independent publishers
- 4-1 - 4 $\frac{1}{2}$ -
- $\frac{2}{3}$ - $\frac{1}{3}$ less
- Access & Pricing issue C
- 80 yrs - no problem
- ATT Preck-up - problem
- 300 - 400 - 1,
- Digitized
- California PUC sets price in CA
- Small companies ^{risk} going out of business
- Anti-Trust not a realistic option
- \$ \$

- Markey - CPI Bill

- 4 year effort -

- Mike Wilson
Tom Kalite

- Larry Irvings

- Listing information a tariffed
items

- white pages information --> canceled

- Public remain walking fingers
↓

- What is needed -- Legislation

- Pathway around the country

- FCC does not want to
do

- Sense of urgency / priority
NII
↓

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

GREAT WESTERN DIRECTORIES,)
INC.,)
)
Plaintiff,)
VS.) CIVIL ACTION NO. CA2-88-218
)
SOUTHWESTERN BELL TELEPHONE) (Consolidated with
) CA2-89-003)
COMPANY, ET AL,)
)
Defendants.)

DEPOSITION OF OLIVIA LANFAIR

AUGUST 14, 1989

SONDRA L. CARGLE, CSR, RPR

SONDRA L. CARGLE & ASSOCIATES
CERTIFIED SHORTHAND REPORTERS
4103 W. 49TH ST.
AMARILLO, TEXAS 79109
806/355-8181

COPY₁

1 Mr. Taylor was present at that meeting,
2 correct?

3 THE WITNESS: Right.

4 MR. ROWLEY: And he is employed by whom?

5 THE WITNESS: Southwestern Bell Telephone
6 Company.

7
8 BY MS. STONE:

9 Q. Was he employed there at the time?

10 A. Yes.

11 Q. Is he still employed there?

12 A. I don't know.

13 Q. All right. Why was that meeting called? Do you
14 know?

15 A. No, I don't.

16 Q. What was discussed at that meeting?

17 A. I discussed the directory listing information
18 agreements.

19 Q. Okay. How did you know that the -- that at that
20 meeting, Southwestern Bell Publications, Media or Yellow
21 Pages was complaining about the revisions?

22 A. Because at the time that I gave my presentation,
23 I was questioned on how we came up with a one dollar price.

24 Q. Okay. And who was it that questioned you?

25 A. At the time, it was Mike Kaufman.

(Former president of Southwestern
Bell Yellow Pages.)

1 Q. Okay. What did he say?

2 A. He asked me why not two dollars, three dollars,
3 four dollars; why one dollar.

4 Q. What comments did he make?

5 A. He told me at the time that we could just
6 eliminate the competition.

7 Q. What did he mean by that?

8 A. I don't know.

9 Q. He told you that you could just eliminate the
10 competition by raising the price?

11 A. That's correct.

12 Q. Competition in what?

13 A. I don't know.

14 Q. Did he think that the price should be higher than
15 a dollar, then?

16 A. He indicated they should have been higher than
17 one dollar.

18 Q. Did he indicate whether or not he'd ever told
19 that to anyone else?

20 A. No, he didn't.

21 Q. Okay. What else did Mr. Kaufman say?

22 A. That was basically all.

23 Q. Okay. Anything else about competition?

24 A. No.

25 Q. Anything about revenue?

1 A. I don't remember.

2 Q. Did he say anything?

3 A. Yes, I'm sure that everyone said something at the

4 meeting. I just don't recall specifically what it was.

5 Q. All right. What about Linda Legg?

6 A. She was there and -- in representation of

7 Southwestern Bell Telephone Company, in regard to our

8 separation -- the separation of joint marketing between

9 subsidiaries; and I think most of the input at that time was

10 concurrence that it was handled properly.

11 Q. That what was handled properly?

12 A. That the notification to increase prices was

13 handled properly in giving 60 days' notification to both our

14 affiliates, as well as our non-affiliates.

15 Q. Did Southwestern Bell Publications, Media or

16 Yellow Pages indicate that they thought they should have

17 been notified earlier?

18 A. Not specifically.

19 Q. Was that the impression that you got?

20 A. It was questioned.

21 Q. Who questioned it?

22 A. Mike Kaufman did.

23 Q. What did he say?

24 A. Simply stated the impact that it was going to

25 have on his expenses.

1 Q. Because he didn't have enough time to prepare for
2 it in his budget?

3 A. That's correct.

4 Q. But he wasn't upset with the amount of the
5 increase? In fact, he thought it should be more?

6 A. That's correct.

7 Q. What about Jerry Kaufman? What was his input?

8 A. Jerry Kaufman?

9 MS. STONE: Off the record a minute.

10 A. I'm sorry, Mike Kaufman. Jerry Allison.

11

12 BY MS. STONE:

13 Q. Okay. We have him, but then we also had a Jerry
14 Kaufman.

15 A. Scratch it.

16 MR. ROWLEY: I don't think there's any such
17 person.

18 MS. STONE: He's gone.

19

20 BY MS. STONE:

21 Q. Hazel Michajliczenko; she gave the presentation
22 on the Fundamental Plan?

23 A. That's correct.

24 Q. Did she discuss any of the studies -- the
25 marketing studies?

ASSOCIATION OF DIRECTORY PUBLISHERS (A.D.P.) POSITION SUMMARY

We are asking all members of Congress to support amendments to pending legislation which would prevent telephone companies from using their control of white page listing information in a predatory or discriminatory manner.

At present there are over 200 independent companies across the country which publish telephone directories in competition with the local telephone company. Independent publishers employ tens of thousands of people and publish over 62 million directories annually.

Currently, telephone company publishers hold over 96% of the telephone directory market. Regional Bell Operating Companies (RBOC'S) alone control 82% of this 9 billion dollar market. This is a degree of hegemony never approached by companies like IBM, General Motors, Proctor & Gamble, Anheuser Busch, and U.S. Steel which are supposed to dominate their fields.

Competition is valuable. Independent publishers have pioneered most of the innovations which have come about in this industry including coupons, zip code listings, etc. Independents offer advertisers low cost alternatives to the directories published by telephone companies and have served as a catalyst compelling all publishers to improve their products and become more responsive to the needs of both consumers and advertisers.

All independent publishers rely on license agreements with telephone companies (their competitors) to obtain white page subscriber listing information. This is an essential facility for which there are no viable substitutes. Telephone companies have this information only because of their status as public utilities, not because of any superior acumen.

By manipulating pricing and access to white page information obtained as a result of their regulated telephone franchise, telephone companies are attempting to eliminate competition and perpetuate their monopoly in the unregulated Yellow Page advertising business. At the same time their wholly-owned directory subsidiaries, who are unregulated and sell yellow page advertising, have unlimited access to this information.

Since the 1984 breakup of AT&T and the ensuing increase in the level of competition provided by independent publishers, Telcos have been restricting access to white page listings and dramatically raising the price for such information. Rate increases of 100%+ per year are not uncommon.

Independent directory publishers need, and are willing to pay a fair price to obtain access to the telephone companies' unique name, address, and telephone number databases. The telephone companies have chosen to exploit their exclusive control over these unique databases to extract prices that are many multiples of their actual costs and have, thereby, needlessly increased the independent publishers' costs of doing business.

Telephone Companies charge an extraordinary variety of prices for exactly the same thing: access to standard, computerized databases of telephone subscriber listing information. For example, the price of listings on magnetic media vary from 4 cents per listing to \$2.50 per listing. Only a monopolist can engage in such discriminatory pricing. It is not uncommon for RBOC's to charge one price to non-competitors (direct mail companies, etc.), while simultaneously charging vastly higher prices to independent publishers for exactly the same information.

Anti-trust action by independent publishers to remedy this situation is difficult because of the enormous costs of such litigation and the tremendous difference in size between independents and telephone companies. Few independent publishers have the resources to litigate against a utility that can charge its legal costs to its rate payers.

In 1989 independent publishers did pool their resources to provide financial assistance to one publisher (Great Western Directories Inc) in a federal anti-trust suit against Southwestern Bell. Great Western won this case on all counts and was awarded \$15 million in damages. In a subsequent injunction the court ordered Southwestern Bell to reduce their listing price from \$1.00/listing to 13.5¢/listing and to dramatically alter their license agreement terms. While this victory underscores the validity of independent publisher's complaints it does not provide a nationwide solution to this problem. Independents simply do not have the resources necessary to separately litigate this issue in all fifty states.

In an attempt to further strain independent publisher's resources, in early 1993, Bell South filed requests with the state public utility commissions (PUC's) in their region to make listing information a tariffed item. While independents do not necessarily object to PUC regulation, this move by Bell South is an attempt to use the PUC's to falsely legitimize their anti-competitive listing policies. Bell South's proposed tariff would, among other things, restrict independent publisher's rights to maintain their own database and produce electronic directories, give Bell South intellectual property rights on the term "Yellow Pages" and the Walking Fingers logo which the courts have repeatedly denied them, and circumvent the Supreme Court's recent decision that white pages listing cannot be copyrighted by conditioning access to listing information on restricted use by independent publishers. By proposing such outrageous terms to multiple PUC's Bell South is attempting to extend independent publisher's resources beyond their limits and gain a competitive advantage in an unregulated industry.

If present trends continue all independent publishers nationwide will eventually fail and the limited competition which does exist in this industry will be eliminated.

The only viable solution to this situation is legislation which insures independent publishers access to listing information on terms which are reasonable and non-discriminatory. This solution is part of the new Danforth-Inouye "Telecommunications Highway" Bill (S#1086), which includes such an access requirement. We ask all Senators to help insure that this provision remains in this legislation and all Congressmen to insure that a similar provision is included in any legislation originating in the House. This is necessary to maintain competition in the printed directory medium and absolutely essential to foster a competitive environment when directories move into electronic formats. Competition in future electronic information markets will be as dependent on non-discriminatory access to subscriber listing information as competition in print products is today.

ASSOCIATION OF DIRECTORY PUBLISHERS
CAROL HILL EXECUTIVE DIRECTOR (508)883-3688.

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ASSOCIATION OF DIRECTORY PUBLISHERS
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1. Plaintiff GREAT WESTERN DIRECTORIES, INC. shall recover of and from Defendants SOUTHWESTERN BELL CORPORATION, SOUTHWESTERN BELL TELEPHONE COMPANY, SOUTHWESTERN BELL PUBLICATIONS, INC., SOUTHWESTERN BELL MEDIA, INC., and SOUTHWESTERN BELL YELLOW PAGES, INC., jointly and severally, the sum of Fifteen Million Dollars and No Cents (\$15,000,000.00);

2. Plaintiff CANYON DIRECTORIES, INC. shall recover of and from Defendants SOUTHWESTERN BELL CORPORATION, SOUTHWESTERN BELL TELEPHONE COMPANY, SOUTHWESTERN BELL PUBLICATIONS, INC., SOUTHWESTERN BELL MEDIA, INC., and SOUTHWESTERN BELL YELLOW PAGES, INC., jointly and severally, the sum of Twenty-eight Thousand, Two Hundred Dollars and No Cents (\$28,200.00);

3. Plaintiff GREAT WESTERN DIRECTORIES, INC. shall recover of and from Defendants SOUTHWESTERN BELL CORPORATION, SOUTHWESTERN BELL TELEPHONE COMPANY, SOUTHWESTERN BELL PUBLICATIONS, INC., SOUTHWESTERN BELL MEDIA, INC., and SOUTHWESTERN BELL YELLOW PAGES, INC., jointly and severally, the sum of One Million Dollars and No Cents (\$1,000,000.00) in attorneys fees for preparation and trial in this Court;

4. Plaintiff CANYON DIRECTORIES, INC. shall recover of and from Defendants SOUTHWESTERN BELL CORPORATION, SOUTHWESTERN BELL TELEPHONE COMPANY, SOUTHWESTERN BELL PUBLICATIONS, INC., SOUTHWESTERN BELL MEDIA, INC., and SOUTHWESTERN BELL YELLOW PAGES, INC., jointly and severally, the sum of Twenty-six Thousand Dollars and No Cents (\$26,000.00) in attorneys fees for preparation and trial in this Court.

It is further ORDERED, ADJUDGED and DECREED that Plaintiffs GREAT WESTERN DIRECTORIES, INC. and CANYON DIRECTORIES, INC. shall recover of and from Defendants SOUTHWESTERN BELL CORPORATION, SOUTHWESTERN BELL TELEPHONE COMPANY, SOUTHWESTERN BELL PUBLICATIONS, INC., SOUTHWESTERN BELL MEDIA, INC., and SOUTHWESTERN BELL YELLOW PAGES, INC., jointly and severally, their proper costs of this action, and interest on this Final Judgment at the rate of 8.09 % per annum as provided by law from July 26, 1990, the date of partial judgment in this action, until paid in full.

It is FURTHER ORDERED, ADJUDGED and DECREED that Plaintiffs GREAT WESTERN DIRECTORIES, INC. and CANYON DIRECTORIES, INC., having sought injunctive relief in addition to the monetary damages awarded above, are entitled to the following injunction to prevent continuing damages.

It is therefore FURTHER ORDERED, ADJUDGED and DECREED that Defendant SOUTHWESTERN BELL TELEPHONE COMPANY shall sell subscriber information listings to independent publishers, including the Plaintiffs, on the following terms and conditions:

- A. Current directory listings on magnetic tape format from Southwestern Bell Telephone Company's database of current listings (formerly referred to as an "initial load" in Southwestern Bell Telephone Company's prior contracts), without any requirement to buy monthly or daily updates in the future, at the price of 13¼¢ per listing, purchased in NNX or exchange increments. An administrative fee of

ments. An administrative fee of \$500.00 per contract and a \$25.00 tape charge may be charged if the magnetic tape option is selected by Plaintiffs. Such "initial load" or "snapshot" will be made available as of any business day selected by Plaintiff, provided advance written notice of sixty (60) days is given.

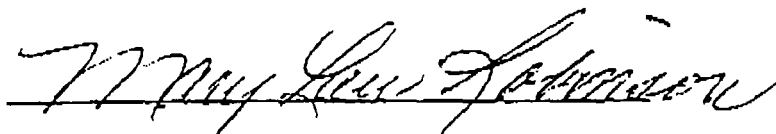
- B. Monthly or daily updates in the formats previously provided, including "business only" listings, purchased in NNX or exchange increments at 13½¢ per listing. Southwestern Bell Telephone Company may, if this update option is requested, require this option to be taken for a period of thirty (30) days, but may not require any longer period. Additional charges for tapes and administrative fees of \$25.00 and \$500.00, respectively, may also be charged if this option is exercised in magnetic tape format. Updates ordered simultaneously with the initial load and covering all or a portion of the initial load NNX's may result in two administrative fees being charged.

It is FURTHER ORDERED, ADJUDGED AND DECREED that the directory listing information purchased in any of the above formats may be used multiple times in multiple editions of Plaintiffs' multiple directories at no additional charge.

It is FURTHER ORDERED, ADJUDGED AND DECREED that these prices, terms and conditions shall remain in effect for five years, unless modified by the Court within that time.

IT IS SO ORDERED, ADJUDGED and DECREED.

Signed this the 17 day of July, 1993.



MARY LOU ROBINSON

UNITED STATES DISTRICT JUDGE

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Independent directory publishers need, and are willing to pay a fair price to obtain access to the telephone companies' unique name, address, and telephone number databases. The telephone companies have chosen to exploit their exclusive control over these unique databases to extract prices that are many multiples of their actual costs and have, thereby, needlessly increased the independent publishers' costs of doing business.

Telephone Companies charge an extraordinary variety of prices for exactly the same thing: access to standard, computerized databases of telephone subscriber listing information. For example, the price of listings on magnetic media vary from 4 cents per listing to \$2.50 per listing. Only a monopolist can engage in such discriminatory pricing. It is not uncommon for RBOC's to charge one price to non-competitors (direct mail companies, etc.), while simultaneously charging vastly higher prices to independent publishers for exactly the same information.

Anti-trust action by independent publishers to remedy this situation is difficult because of the enormous costs of such litigation and the tremendous difference in size between independents and telephone companies. Few independent publishers have the resources to litigate against a utility that can charge its legal costs to its rate payers.

In 1989 independent publishers did pool their resources to provide financial assistance to one publisher (Great Western Directories Inc) in a federal anti-trust suit against Southwestern Bell. Great Western won this case on all counts and was awarded \$15 million in damages. In a subsequent injunction the court ordered Southwestern Bell to reduce their listing price from \$1.00/listing to 13.5¢/listing and to dramatically alter their license agreement terms. While this victory underscores the validity of independent publisher's complaints it does not provide a nationwide solution to this problem. Independents simply do not have the resources necessary to separately litigate this issue in all fifty states.

In an attempt to further strain independent publisher's resources, in early 1993, Bell South filed requests with the state public utility commissions (PUC's) in their region to make listing information a tariffed item. While independents do not necessarily object to PUC regulation, this move by Bell South is an attempt to use the PUC's to falsely legitimize their anti-competitive listing policies. Bell South's proposed tariff would, among other things, restrict independent publisher's rights to maintain their own database and produce electronic directories, give Bell South intellectual property rights on the term "Yellow Pages" and the Walking Fingers logo which the courts have repeatedly denied them, and circumvent the Supreme Court's recent decision that white pages listing cannot be copyrighted by conditioning access to listing information on restricted use by independent publishers. By proposing such outrageous terms to multiple PUC's Bell South is attempting to extend independent publisher's resources beyond their limits and gain a competitive advantage in an unregulated industry.

If present trends continue all independent publishers nationwide will eventually fail and the limited competition which does exist in this industry will be eliminated.

The only viable solution to this situation is legislation which insures independent publishers access to listing information on terms which are reasonable and non-discriminatory. This solution is part of the new Danforth-Inouye "Telecommunications Highway" Bill (S#1086), which includes such an access requirement. We ask all Senators to help insure that this provision remains in this legislation and all Congressmen to insure that a similar provision is included in any legislation originating in the House. This is necessary to maintain competition in the printed directory medium and absolutely essential to foster a competitive environment when directories move into electronic formats. Competition in future electronic information markets will be as dependent on non-discriminatory access to subscriber listing information as competition in print products is today.

ASSOCIATION OF DIRECTORY PUBLISHERS
CAROL HILL EXECUTIVE DIRECTOR (508)883-3688.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. fax	List of attendees for October 1 meeting at the Old Executive Office Building [partial] (1 page)	Sep. 20, 1993	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Michael Schmidt
OA/Box Number: 7349

FOLDER TITLE:

Association of Directory Publishers

2013-0968-S

sb63

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

THE TALKING PHONE BOOK

September 20, 1993
Via Facsimile

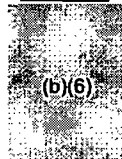
Mike Schmidt
Domestic Policy Office
The White House
Washington D.C.

Dear Mike,

Per our recent telephone conversations, here is the list of attendees for our October 1st meeting at the Old Executive Office Building:

Richard D. Lewis
Wilbur D. Lewis
Phillip Verveer
Claudia James
Russell Smith

Birthdate



I have also included a copy of our Association's (A.D.P.) position summary for your review. Please let me know if there's anything else you need. I look forward to seeing you on October 1st.

Sincerely,



Richard D. Lewis

DATE: September 10, 1993
TO: Carol Rasco
FROM: Mike Schmidt
RE: Follow up on Association of Directory Publishers Letter

I spoke with Richard Lewis of the Association of Directory Publishers (ADP) this afternoon. The topic of conversation was the letter that he sent to you dated April 21 (the letter that you didn't see until recently), which I have attached. As you requested, I apologized for the late response to his letter and asked for an update on ADP's situation. As you may recall, ADP is composed of independent telephone directory publishers, and they has written to you to complain about the anti-competitive activities of the Bell Operating Companies (they are selling their lists of subscriber information to ADP members for far more than market price, while their the Bell telephone directory companies get the information for free).

Apparently, much has happened since his letter to you of April 21. The ADP has been working closely with Senators Inouye and Danforth and Representative Markey on this issue, and their efforts have led to several amendments addressing the issue in S-1086, the Inouye/Danforth-sponsored Telecommunications Infrastructure Act of 1993. Rep. Markey is supposedly ready to offer similar amendments to the House version in the near future.

Mr. Lewis asked to meet with us to discuss the issue in more detail, especially as it relates to the Administration's planned Information Highway Initiative. I tentatively set up a meeting with him on October 1 on this issue. I have two questions about this meeting:

- Is it alright for me to meet with ADP and hear what they have to say? *Absolutely fine!*
- If yes, would you like to attend the meeting? *I'll probably not sit in at this time.*

If the meeting does take place, we may want to invite someone from Vice President Gore's policy staff to sit in, since the Information Highway Initiative is one of the VP's pet projects. What do you think? - *Excellent suggestion!*

*Thanks for your usual thorough and fine work!
CRasco*



Association of Directory Publishers

105 Summer Street • Wrentham, MA 02093 • (508) 883-3688 • FAX (508) 883-3717

April 21, 1993

*Mike Schmidt →
P.S. - call me,
MS*

Carol Rasco
Assistant to the President
for Domestic Policy
The Whitehouse
1600 Pennsylvania Ave
Washington DC 70501

Dear Ms. Rasco:

I am writing to you at the suggestion of Darlene Davis, Legislative Assistant to Congressman William Jefferson of Louisiana. Recently a member of our Association, Bill Hammack, spoke to Ms. Davis concerning an issue which not only threatens to eliminate all competition in the Telephone Directory Publishing Industry and put tens of thousands of people out of work, but also has major ramifications for the Information Highway/RBOC vs. Cable Industry Debate currently taking place in Congress. Enclosed please find a two page summary of this issue and the origins of our Association, the Association of Directory Publishers (ADP).

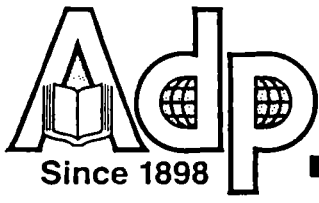
ADP was founded in 1898 and is composed of independent telephone directory publishers. Our directories compete with the directories published by the Regional Bell Operating Companies and other tariff holders. We have over 200 members across the country and collectively publish more telephone directories than any other company in the United States including the Bell Operating Companies. Since the break up of AT&T in 1984 we have been the victims of a deliberate campaign of anti-competitive practices conducted by the Bell Operating Companies which is designed to restrict our access to an essential facility (subscriber white page listing information) and limit our ability to compete with their directory subsidiaries. We would like to see safeguards inserted into any future telecommunications legislation which would guarantee us access to subscriber listing information on terms which are reasonable and non-discriminatory. Since subscriber listing information is something which the telephone companies have control over strictly because of their status as regulated Public Utilities we feel that they should not be permitted to use this control to restrict competition in the unregulated yellow page advertising business. At present, most telephone companies provide this information to their unregulated directory publishing subsidiaries on terms which are far more favorable than the terms under which they provide them to independent publishers. What we are looking for is some simple safeguards to prevent this discriminatory conduct. We are flexible about the language and potential vehicles used to establish such safeguards. We do not oppose the entry of the Regional Bell Operating Companies into the electronic publishing industry as long as safeguards like the one we are proposing are in place to prevent them from unfairly monopolizing this industry. The issue of equal access to subscriber listing information is as necessary to insure the existence of a competitive environment in the future electronic publishing industry as it is to allow competition in the present print publishing industry.

Since 1990 we have been extremely active in Washington. We have met regularly with the staffs of Congressmen Markey, Dingel, Tavzin, Cooper, and Brooks as well as all other members of the Energy & Commerce and Judicial Committees in the House. At the request of these committees we have submitted documentation supporting our position into the records of these committees. We have also had numerous contracts with members of the Senate, particularly members of the Commerce and Judicial Committees. All of the Members of Congress we've spoken with have expressed support for our position and have agreed that what we're trying to accomplish is very reasonable and routine. A number of them have suggested that we should meet with a member of

the Administration to make you aware of our existence and our circumstances. That is the purpose of this letter. I would like to meet with you or your representative at any future date which is convenient for you to provide a more thorough explanation of our situation. Our attorney Phil Verveer from Wilkai Farr and Gallagher would be available to give details on the potential remedies we would consider appropriate to solve this problem. Please have someone from your office contact me at (716) 875-9100 to set up a meeting time which would be convenient for you or your representative.

Sincerely,

Richard D. Lewis
ADP Legal Affairs Chairman



Association of Directory Publishers

105 Summer Street • Wrentham, MA 02093 • (508) 883-3688 • FAX (508) 883-3717

April 21, 1993

Carol Rasco
Assistant to the President
for Domestic Policy
The Whitehouse
1600 Pennsylvania Ave
Washington DC 70501

*Mike Schmitt →
P.S. Call me,
CJR*

Dear Ms. Rasco:

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Sincerely,

Richard D. Lewis
ADP Legal Affairs Chairman

ASSOCIATION OF DIRECTORY PUBLISHERS (A.D.P.)

POSITION SUMMARY

AT PRESENT THERE ARE OVER 200 INDEPENDENT COMPANIES ACROSS THE COUNTRY WHICH PUBLISH TELEPHONE DIRECTORIES IN COMPETITION WITH THE LOCAL TELEPHONE COMPANY. THESE COMPANIES EMPLOY TENS OF THOUSANDS OF PEOPLE AND PUBLISH OVER 62 MILLION DIRECTORIES ANNUALLY.

CURRENTLY, TELEPHONE COMPANY PUBLISHERS HOLD OVER 96% OF THE TELEPHONE DIRECTORY MARKET. REGIONAL BELL OPERATING COMPANIES (RBOC'S) ALONE CONTROL 82% OF THIS 9 BILLION DOLLAR MARKET. THIS IS A DEGREE OF HEGEMONY NEVER APPROACHED BY COMPANIES LIKE IBM, GENERAL MOTORS, PROCTOR & GAMBLE, ANHEUSER BUSCH AND U.S. STEEL, WHICH ARE SUPPOSED TO DOMINATE THEIR FIELDS.

COMPETITION IS VALUABLE. INDEPENDENT PUBLISHERS HAVE PIONEERED MOST OF THE INNOVATIONS WHICH HAVE COME ABOUT IN THIS INDUSTRY INCLUDING, COUPONS, ZIP CODE LISTINGS, SEATING DIAGRAMS, ETC.. INDEPENDENTS ALSO OFFER ADVERTISERS LOW COST ALTERNATIVES TO THE DIRECTORIES PUBLISHED BY TELEPHONE COMPANIES AND HAVE SERVED AS A CATALYST COMPELLING ALL PUBLISHERS TO IMPROVE THEIR PRODUCTS AND BECOME MORE RESPONSIVE TO THE NEEDS OF BOTH CONSUMERS AND ADVERTISERS.

ALL INDEPENDENT PUBLISHERS RELY ON LICENSE AGREEMENTS WITH TELEPHONE COMPANIES (THEIR COMPETITORS) TO OBTAIN WHITE PAGE SUBSCRIBER LISTING INFORMATION. THIS IS AN ESSENTIAL FACILITY FOR WHICH THERE ARE NO VIABLE SUBSTITUTES. TELEPHONE COMPANIES HAVE THIS INFORMATION ONLY BECAUSE OF THEIR STATUS AS PUBLIC UTILITIES, NOT BECAUSE OF ANY SUPERIOR ACUMEN.

BY MANIPULATING PRICING AND ACCESS TO WHITE PAGE INFORMATION OBTAINED AS A RESULT OF THEIR REGULATED TELEPHONE FRANCHISE, THESE TELEPHONE COMPANIES ARE ATTEMPTING TO ELIMINATE COMPETITION AND PERPETUATE THEIR MONOPOLY IN THE UNREGULATED YELLOW PAGE ADVERTISING BUSINESS. AT THE SAME TIME THEIR WHOLLY-OWNED DIRECTORY SUBSIDIARIES, WHO ARE UNREGULATED AND SELL YELLOW PAGE ADVERTISING, HAVE UNLIMITED ACCESS TO THIS INFORMATION.

TELEPHONE COMPANIES HAVE ROUTINELY SUPPLIED LISTING INFORMATION TO INDEPENDENT PUBLISHERS ON REASONABLE TERMS FOR DECADES. ONLY SINCE JUDGE GREENE'S 1984 BREAKUP OF AT&T AND THE ENSUING INCREASE IN THE LEVEL OF COMPETITION PROVIDED BY INDEPENDENT PUBLISHERS HAVE TELCOS STARTED RESTRICTING ACCESS TO WHITE PAGE LISTINGS AND DRAMATICALLY RAISING THE PRICE FOR SUCH INFORMATION. RATE INCREASES OF 100%+ PER YEAR ARE NOT UNCOMMON.

INDEPENDENT DIRECTORY PUBLISHERS NEED, AND ARE WILLING TO PAY A FAIR PRICE TO OBTAIN ACCESS TO THE TELEPHONE COMPANIES' UNIQUE NAME, ADDRESS, AND TELEPHONE NUMBER DATABASES. THE TELEPHONE COMPANIES HAVE CHOSEN TO EXPLOIT THEIR EXCLUSIVE CONTROL OVER THESE UNIQUE DATABASES TO EXTRACT PRICES THAT ARE MANY MULTIPLES OF THEIR ACTUAL COSTS AND HAVE, THEREBY, NEEDLESSLY INCREASED THE INDEPENDENT PUBLISHERS' COSTS OF DOING BUSINESS.

A.D.P. POSITION SUMMARY (CONT'D)

THE MOST STRIKING EVIDENCE OF THIS IS THE EXTRAORDINARY VARIETY IN PRICES TELEPHONE COMPANIES CHARGE - AMONG COMPANIES AND WITHIN COMPANIES - FOR EXACTLY THE SAME THING: ACCESS TO STANDARD, COMPUTERIZED DATABASES OF TELEPHONE SUBSCRIBER LISTING INFORMATION. FOR EXAMPLE, THE PRICE OF LISTINGS ON MAGNETIC MEDIA VARY FROM 4 CENTS PER LISTING TO \$2.50 PER LISTING. ONLY A MONOPOLIST CAN ENGAGE IN SUCH DISCRIMINATORY PRICING. IT IS NOT UNCOMMON FOR RBOC'S TO CHARGE ONE PRICE TO NON-COMPETITORS (DIRECT MAIL COMPANIES ETC), WHILE SIMULTANEOUSLY CHARGING VASTLY HIGHER PRICES TO INDEPENDENT PUBLISHERS FOR EXACTLY THE SAME INFORMATION.

ANTI-TRUST ACTION BY INDEPENDENT PUBLISHERS TO REMEDY THIS SITUATION IS DIFFICULT BECAUSE OF THE ENORMOUS COSTS OF SUCH LITIGATION AND THE TREMENDOUS DIFFERENCE IN SIZE BETWEEN INDEPENDENTS AND TELEPHONE COMPANIES. FEW INDEPENDENT PUBLISHERS HAVE THE RESOURCES TO LITIGATE AGAINST A UTILITY THAT CAN LITIGATE ON A COST FREE BASIS BY CHARGING THE EXPENSES OF LITIGATION TO ITS RATE PAYERS.

IF PRESENT TRENDS CONTINUE ALL INDEPENDENT PUBLISHERS NATIONWIDE WILL EVENTUALLY FAIL AND THE LIMITED COMPETITION WHICH DOES EXIST IN THIS INDUSTRY WILL BE ELIMINATED.

THE ONLY VIABLE SOLUTION TO THIS SITUATION IS LEGISLATION WHICH INSURES INDEPENDENT PUBLISHERS ACCESS TO LISTING INFORMATION ON TERMS WHICH ARE REASONABLE AND NON-DISCRIMINATORY. THIS IS NOT ONLY NECESSARY TO MAINTAIN COMPETITION IN THE PRINTED DIRECTORY MEDIUM. IT IS ALSO ABSOLUTELY ESSENTIAL TO FOSTER A COMPETITIVE ENVIRONMENT WHEN DIRECTORIES MOVE INTO ELECTRONIC FORMATS. COMPETITION IN FUTURE ELECTRONIC INFORMATION MARKETS WILL BE AS DEPENDENT ON NON-DISCRIMINATORY ACCESS TO SUBSCRIBER LISTING INFORMATION AS COMPETITION IN PRINT PRODUCTS IS TODAY.

FOR THE PAST 2½ YEARS ADP HAS HAD EXTENSIVE FAVORABLE CONTACT WITH NUMEROUS MEMBERS OF BOTH THE HOUSE AND SENATE. WE HAVE PROVIDED DOCUMENTATION SUPPORTING OUR CLAIMS OF TELCO MISCONDUCT TO THE HOUSE TELECOMMUNICATIONS SUBCOMMITTEE. WE HAVE SUBMITTED STATEMENTS INTO THE RECORDS OF BOTH THE TELECOMMUNICATIONS AND COMMERCIAL & ECONOMIC LAW SUBCOMMITTEES. OUR MEMBERSHIP HAS MADE MANY CONTACTS WITH MEMBERS OF CONGRESS ACROSS THE COUNTRY. WE ARE ASKING ALL MEMBERS OF CONGRESS TO SUPPORT AMENDMENTS TO PENDING LEGISLATION WHICH WOULD PREVENT TELEPHONE COMPANIES FROM USING THEIR CONTROL OF WHITE PAGE LISTING INFORMATION IN A PREDATORY OR DISCRIMINATORY MANNER.

ASSOCIATION OF DIRECTORY PUBLISHERS CAROL HILL EXEC. DIRECTOR (508)883-3688.