

ORIGINAL

Decision No. 91119 DEC 18 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the telephone directory advertising rates, charges, contracts, rules, practices, and service of GENERAL TELEPHONE COMPANY OF CALIFORNIA.

OII No. 37
(Filed February 27, 1979)

(For appearances see Decision No. 90207.)

Additional appearance:

James C. McVicar, for the Commission staff.

FINAL OPINION

OII No. 37, issued February 27, 1979, ordered the institution of an investigation on the Commission's own motion into the telephone directory advertising rates, charges, contracts, rules, practices, and service of General Telephone Company of California (General) for the purpose of determining whether the tariff filed pursuant to Advice Letter No. 4336 should be suspended and whether the Commission should prohibit the publication of the new neighborhood telephone directories covered by said Advice Letter.

Following public hearing, Interim Decision No. 90207 dated April 24, 1979 ordered suspension of the tariff pages filed by General in connection with its Advice Letter No. 4336 until further order. General was directed to prepare studies or analyses showing: (1) the benefits which will be derived by current telephone subscribers from the publication of the neighborhood directories proposed in Advice Letter No. 4336, and (2) the level of acceptance of such neighborhood

directories by: (a) current subscribers to General's Pomona Directory, and (b) subscribers to the neighborhood directories published pursuant to the authority granted in Decision No. 88552.

Further public hearing in OII No. 37 was held before Administrative Law Judge Mallory in Los Angeles on August 7, 1979 and the matter was submitted subject to the filing of concurrent briefs on or before August 14, 1979. Briefs were filed by General and by Clarke Directory Publications, Inc. (Clarke).

Background

General provides telephone service in the San Gabriel Valley. In that area it publishes two main directories, the so-called Pomona area directory and the Ontario area directory.^{1/} The alphabetical listing of telephone service subscribers (white pages) is the same in both the Pomona and Ontario area directories. The classified sections (yellow pages) in each directory cover only the communities described in Footnote 1. The geographical areas covered in the two directories are adjacent; the Pomona area lies to the west, and the Ontario area lies to the east. Montclair is the approximate center of the geographical area covered by the two directories. The main shopping center for the two areas as pinpointed on the maps appearing on the back cover of each directory is the Montclair

^{1/} The Pomona Directory includes Chino, Claremont, Diamond Bar, La Verne, Montclair, Pomona, San Dimas, Walnut, and portions of Cucamonga, Glendora, Industry, La Puente, Mt. Baldy, Ontario, Rancho Cucamonga, Rowland Heights, Upland, and West Covina.

The Ontario Directory includes Alta Loma, Cucamonga, Etiwanda, Guasti, Mt. Baldy, Ontario, Rancho Cucamonga, Upland, and portions of Chino, Claremont, Corona, Fontana, La Verne, Montclair, Pomona, San Dimas, and Walnut.

Shopping Center located at 5003 S. Plaza Lane, Montclair. That shopping center lies adjacent to and just west of the line dividing the geographical areas served by the two directories.

Advice Letter No. 4336 authorized General to publish four so-called neighborhood directories within the area covered by the current Pomona Directory. The total stations in service excluding company administrative stations for each area as of October 31, 1978, are as follows:

TABLE 1

<u>Neighborhood Directory</u>	<u>Total Stations</u>	<u>Rate Group</u>
Pomona	47,287	17 (40,001 - 47,500)
Walnut-Diamond Bar	37,604	16 (35,001 - 40,000)
Chino	32,122	15 (30,001 - 35,000)
Claremont-La Verne-San Dimas	79,859	21 (75,001 - 87,500)

General will continue to publish the Pomona and Ontario Directories. Subscribers within each area covered by a neighborhood directory will receive the neighborhood directory applicable to his or her area as well as the Pomona Directory.

The telephone directories furnished to its subscribers by General are published by an affiliate, General Telephone Directory Company (GTDC). GTDC also arranges for and sells the yellow-page advertising in directories published by it. GTDC has contacted advertisers in the Pomona Directory yellow pages concerning renewal of advertising in the next issue of that directory. In connection with those sales activities, GTDC has offered and sold yellow-page space in the new neighborhood directories. Separate schedules of advertising charges are applicable to the Pomona and to the neighborhood directories, based on the number of subscribers to be furnished with each directory.

OII 37 ks

The net revenues from the publication of existing directories of General are split 43 percent to GTDC and 57 percent to General under agreement reached several years ago.

Advice Letter No. 4336 was accepted for filing by our Communications Division on the belief that Commission policy concerning publication of new neighborhood directories was determined in Western Directory Publishers Assn. v General Telephone Co. of Calif. (Decision No. 88552 dated March 7, 1978 in Cases Nos. 10327 and 10346). The principal issue raised in that proceeding was whether the publication of neighborhood directories within the area of General's Covina Exchange constituted unfair and unlawful competition because Clarke published private directories in the same area. The Commission found General's actions did not constitute unfair or unlawful competition with Clarke. It also found that such offering beneficially provided more options to advertisers, resulting in a greater convenience for the telephone user, and that any added revenues would be a contribution to overall costs of providing telephone service.

Issues.

At the initial hearing evidence was received on the issue of whether adequate and proper service of Advice Letter No. 4336 was made upon Clarke. On that issue, the Commission found in Decision No. 90207 that adequate notice was not provided to interested parties (in particular, Rick Stein, attorney for Clarke) in which timely protest could be made to Advice Letter No. 4336. Clarke has fully participated in the initial and final phases of OII No. 37.

Decision No. 90207 was based on the record made in the interim phase of OII No. 37, which consisted primarily of the effect upon advertisers of the publication of the proposed neighborhood directories. In Decision No. 90207 we indicated that we initially reached a different conclusion than was reached in

Decision No. 88552 because the record in the two proceedings was different. Decision No. 90207 does not necessarily reflect a new or different philosophical approach to neighborhood directories.

The evidence presented by yellow-page advertisers in the initial phase of this proceeding indicated several objections to neighborhood directories. Publication of the neighborhood directories may require advertisers to advertise in the four neighborhood directories as well as the Pomona Directory in order to reach the same potential customers as are now reached with the present Pomona wide-area directory alone. Several witnesses indicated that the potential customers they attempt to reach through directory advertising are located in areas covered by more than one neighborhood directory, or by all neighborhood directories. Inasmuch as each subscriber will receive a Pomona wide-area directory and a neighborhood directory for his locality, advertisers cannot be certain which directory will be used by the subscriber for yellow-page reference. This fact assertedly requires a business concern to advertise in the neighborhood book for each area in which potential customers are located, and also in the wide-area directory. Most witnesses have placed advertisements in the Pomona wide-area directory and in one or more neighborhood directories. They point out that publication of their advertising in this manner reaches no more customers than are now reached by publication in the Pomona wide-area directory. The only effect is to increase their yellow-page advertising costs. Some advertise under more than one heading; in such cases advertising under some headings would be dropped in order to advertise in more than one directory.

Decision No. 90207 found that there was limited evidence introduced with respect to acceptance of neighborhood directories by subscribers who were not also advertisers. The decision stated that General had not borne the burden of proving that the Advice Letter should not be suspended, as required by OII No. 37. General was directed to prepare and furnish data that indicate whether or not the publication of neighborhood directories will benefit subscribers, and the acceptance level of the proposed neighborhood directories by subscribers to its Pomona wide-area directory.

Additional Evidence

At the August 7, 1979 hearing, General introduced evidence as directed in the interim order. Additional evidence was also introduced in opposition to the neighborhood directories by five yellow-page advertisers.

An independent market analysis firm, Market Facts, Inc., was employed by General to prepare the studies directed in the interim order. The vice president and general manager of the west coast office of Market Facts, Inc. presented studies entitled "Attitudes Toward Smaller Neighborhood Directories-Pomona Businessmen" (Exhibit 20) and "Attitudes Toward and Usage of Smaller Neighborhood Directories Pomona/Covina - Residential" (Exhibit 21). The data set forth in Exhibits 20 and 21 were collected by Market Facts, Inc. through telephone surveys.

Exhibit 20 contains the following summary:

"...75% of the Pomona businesses surveyed currently had a paid advertisement in the Wide Area Directory. Those not advertising in the Wide Area Directory claimed that their type of business did not require advertising or that it was not an effective expenditure for them. Cost was not a consideration in making this choice.

"Only...52% of those businesses surveyed had heard of the neighborhood directory concept, with the majority of them hearing about it through other businessmen, the Flyer published by Clarke, or the newspaper/media coverage of the issue (52% of those aware). Forty-three percent...had heard of it through a GTE salesman.

"Interest in a neighborhood directory is rated highest for the following reasons: local customers can find ads easier in a smaller directory, a smaller directory makes me part of the community and a smaller directory reduces the number of competitive ads customers see.

"However, it must be pointed out that in no way would neighborhood directories replace the wide area directory in respondents' minds.

"Those who find the neighborhood directory concept beneficial, for the most part, also find a wide area directory necessary for the following reasons: it reaches farther, people don't use small directories as much, and the small directories don't include a large enough area.

"...57% of the respondents agreed that if both types of directories existed they would advertise only in the larger directory while only ten percent ...agreed they would advertise only in the smaller directories. Forty percent...agreed they would probably advertise in both.

"Only...25% of those businesses surveyed felt the neighborhood directory concept was not a good idea. The additional cost of advertising in neighborhood directories is the reason given by approximately one-third...of these respondents. However, this represents only eight percent...of the total sample. The remaining 91% of the sample felt that neighborhood directories were:

"A good idea: 74%
for their type of business..28%
but not useful to them.....46%

"Not a good idea (for reasons other than cost): 17%"

Exhibit 21 contains the following summary of the survey covered in connection therewith:

"The majority of respondents in each of the communities surveyed tend to do most of their shopping within a three to five mile radius of home. A high percentage of respondents in both the Pomona and Covina areas (between 69% and 79%) use their directory or directories to locate stores. Eighty percent or more use the available directories 'frequently' or 'occasionally' for this purpose.

"Most respondents perceive several benefits in having both a smaller, neighborhood directory and a larger wide-area directory. Those who have both types of directories use each for specific purposes. Respondents who do not have a neighborhood directory anticipate they would use each type of directory for specific purposes.

"Although the percentages of respondents in each segment (have both directories in Pomona and Covina and have only the larger directory in Pomona) differ in the degree of agreement or disagreement with the actual or anticipated benefits of having a smaller directory as a supplement to the larger directory, the trend is similar -- the majority of all three segments agrees or disagrees with the stated benefit statement.

"Most respondents agree that the larger directory is or would be more useful because more stores are listed in it and they are more likely to find what they are looking for. They tend to disagree that they rarely use or would use the larger directory because so many of the stores listed are too far away.

"Over 60% of the respondents say they use or would use the larger directory more often than the smaller one. Between 64% and 78% disagree that they rarely use or would use the larger directory because of the availability of the neighborhood directory.

"The majority also disagree that having a smaller directory is or would be a nuisance because they usually have to or would have to use the larger directory anyway."

* * *

"Most respondents agree that they use or would use the yellow pages more now that they have or if they would have a smaller directory. The majority agree that having a neighborhood directory makes or would make it easier to find stores close to home and they can or would be able to find most things they need in a smaller directory that only listed stores in their local areas. Between 69% and 76% say they would rather shop closer to home and a smaller neighborhood yellow pages helps or would help them do that.

"Over 60% agree that they can or would be able to find local stores faster in a smaller neighborhood directory, and a smaller directory makes or would make using the yellow pages more convenient.

"Over three-fourths of the respondents, with or without a neighborhood directory, disagree, that it doesn't matter if they have a smaller directory because they don't use the yellow pages anyway.

"Almost half (47%) of the Pomona and 60% of the Covina respondents with both directories agree that they don't use directory assistance as much now that they have a smaller telephone directory. Over half (58%) of the Pomona respondents who do not have a neighborhood directory anticipate they would use directory assistance less often if they had a neighborhood directory.

"Almost half (42%) of the Pomona area respondents who do not now have a neighborhood directory indicated that they would like to have a neighborhood directory to supplement their larger, wide-area directory."

Legislative Action

Senate Bill No. 301 (Statutes of 1979, Chapter 547) (SB 301) added Section 728.2 to the Public Utilities Code effective January 1, 1980 as follows:

"728.2. The commission shall have no jurisdiction or control over classified telephone directories or commercial advertising included as part of the corporation's alphabetical telephone directories including the charges for and the form and content of such advertising, except that the commission

shall investigate and consider revenues and expenses with regard to the acceptance and publication of such advertising for purposes of establishing rates for other services offered by telephone corporations.

"This section shall remain in effect only until January 1, 1983, and on such date is repealed, unless a later enacted statute chaptered on or before January 1, 1983, deletes or extends that date."

SB 301 also provided that the Commission shall study and report to the Legislature on or before January 1, 1982, on the impact of the provisions of Section 728.2 of the Public Utilities Code as added by this act upon competition in the telephone directory advertising industry.

Discussion

It is the apparent intent of the Legislature to deregulate yellow-page advertising for a three-year period. The evidence in opposition to the proposed neighborhood directories was presented solely by yellow-page advertisers. If our actions herein are to be consistent with the legislative intent of SB 301 as we perceive it, we should take no steps to prevent General from making any changes it wishes in the format of its yellow-page advertising, nor should we consider the effect those changes may have upon General's yellow-page advertising customers. In other words, in deciding whether to finally approve or disapprove Advice Letter No. 4336, we should not consider any of the evidence relating to yellow-page advertising and yellow-page advertisers.

We will, therefore, consider only that evidence pertinent to General's subscribers. That evidence principally is contained in surveys conducted by Market Research, Inc. The data presented by Market Research, Inc., as summarized above, show that the benefits to nonbusiness subscribers from General's proposal outweigh the objections to such proposal. In the circumstances, we will approve the advice letter filing in the order which follows.

Findings of Fact

1. The tariff filings appended to Advice Letter No. 4336 filed by General on November 20, 1978 and amended December 18, 1978, which became effective December 21, 1978 were suspended by Interim Decision No. 90207 in this proceeding.

2. Advice Letter No. 4336 provided for the publication of four neighborhood telephone directories within the same geographical area now covered by General's Pomona wide-area directory.

3. The Pomona wide-area directory will continue to be published after publication of the four neighborhood directories is initiated. Each subscriber to telephone service in the Pomona Exchange area will receive a Pomona wide-area directory together with the neighborhood directory for the local area in which the subscriber is situated.

4. GTDC publishes telephone directories for General and arranges for the sale of yellow-page advertising in such directories.

5. The protestants in this proceeding are current yellow-page advertisers and local chambers of commerce. The chambers represent substantial numbers of local business people. The protestants' objections to Advice Letter No. 4336 involve yellow-page advertising.

6. The evidence of protestants indicates that no real benefits redound to yellow-page advertisers from publication of the neighborhood directories covered by Advice Letter No. 4336, but that General's and GTDC's advertising revenues will be substantially increased.

7. General presented evidence at the August 7, 1979 hearing in response to the directive in Ordering Paragraph 2 of Decision No. 90207.

8. The evidence produced by General shows that current nonbusiness telephone subscribers will derive benefits from the publication of neighborhood directories proposed in Advice Letter No. 4336 and that current nonbusiness subscribers will accept such neighborhood directories.

9. Since the issuance of Decision No. 90207, SB 301 (Statutes of 1979, Chapter 547) has been enacted. The provisions of SB 301 become effective January 1, 1980. The legislative intent in SB 301 is to remove from the jurisdiction of this Commission authority to regulate classified directories and commercial advertising included as part of a telephone corporation's alphabetical telephone directories.

Conclusions of Law

1. General's informational (white page) portion of its telephone directories is an essential instrumentality in connection with its telephone service, and is subject to regulation by the Commission (Decision No. 88552, supra).

2. General has sustained the burden of proof contemplated in OII No. 37 with respect to nonbusiness subscribers listed in the informational (white page) portions of its proposed neighborhood directories.

3. Evidence concerning the effect of General's proposal to publish neighborhood directories upon yellow-page advertisers and upon GTDC's advertising revenues should not be considered in this proceeding, in view of the legislative intent in SB 301 that this Commission exercise no jurisdiction over yellow-page advertising for a three-year period beginning January 1, 1980.

4. The suspension of Advice Letter No. 4336 ordered in Decision No. 90207 should be lifted and the provisions of that Advice Letter should be permitted to go into effect, and OII No. 37 should be terminated.

5. This order should be made effective the date hereof in order to enable the necessary tariff revisions to be made before January 1, 1980.

FINAL ORDER

IT IS ORDERED that:

1. The suspension of General Telephone Company of California's (General) Advice Letter No. 4336 is lifted, and General is authorized to file new tariff sheets implementing the provisions of that Advice Letter to become effective ten days after the effective date of this order.

2. The proceeding in OII No. 37 is terminated.

The effective date of this order is the date hereof.

Dated DEC 18 1979, at San Francisco, California.

John E. Guyon
President
James L. Starnes
Herbert W. Howell
Clair T. DeJong
James J. Quinn
Commissioners