

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF
RESPONSE TO DATA REQUEST

DATE PREPARED:	December 29, 2004	WITNESS:	Dr. Lee Selwyn
CASE NO.:	UT-040788	RESPONDER:	Dr. Lee Selwyn
REQUESTER:	Verizon NW Inc.	TELEPHONE:	(360) 664-1189

VZ Data Request No. 124.

In his Testimony, Dr. Selwyn states at page 60, lines 18-22 that “it was this unique market position afforded to GTDC, relative to potential competitors in the yellow pages business, combined with certain fundamental economic characteristics of the yellow page market, that allowed GTDC to achieve the dominant position in the market that its successor VDC continues to benefit from today.” Please answer the following with respect to the foregoing Testimony:

- (a) Please define the term “market” as that term is used in this Testimony;
- (b) Is it Dr. Selwyn’s contention that “yellow pages” constitute a relevant antitrust product market? If so, please describe all studies undertaken by Dr. Selwyn that support this position;
- (c) What economic meaning, if any, does Dr. Selwyn ascribe to the word “dominate?”
- (d) Is it Dr. Selwyn’s contention that directory publishers do not compete with suppliers of other forms of local advertising? If so, provide copies of all analyses undertaken by Dr. Selwyn that support this position.
- (e) Has Mr. Selwyn conducted any studies that attempt to quantify the alleged benefit to VDC described in the quoted statement? If so, please provide copies of all such studies.

RESPONSE:

- (a) The “market” to which Dr. Selwyn refers is that for traditional paper “Yellow Pages” containing a comprehensive listing of businesses classified by type of business, covering a relatively narrow geographic region roughly comparable to the wireline telephone subscribers’ local non-toll calling area (including extended area service (EAS) locations accessible on a toll-free basis), and distributed without charge to the user on an annual basis.
- (b) Yes. Dr. Selwyn has not undertaken any formal “studies,” but would observe that to qualify as a “market” for antitrust purposes, consumers must perceive the various products and services as constituting close substitutes. The DoJ *Horizontal Merger*

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Guidelines explicitly state that “[m]arket definition focuses solely on demand substitution factors -- i.e., possible consumer responses.”¹ While other forms of print and electronic advertising may be substitutes for paper yellow pages directories in certain limited situations, the persistence of paper yellow pages directories and the high level of profit that they are able to generate (indicating that advertising rates are set at multiples of cost) are consistent with a conclusion that consumers do not view alternative forms of advertising as close substitutes. Newspapers and broadcast media do not provide *comprehensive* listings of all suppliers across all fields of commerce that can be accessed randomly as required by the user – i.e., both broadcasting and newspapers/magazines are fundamentally *serial* media, and do not afford users with the ability for random access to the specific information being sought. While such information is available over the Internet, an Internet-connected computer may not always be accessible. Superficial similarities and marginally overlapping coverage of alternative forms of advertising do not provide a basis to expand the market definition beyond the paper yellow pages directory as defined in response to 124 (a) *supra*.

- (c) A “dominant” firm is one that controls a sufficiently large share of the relevant market that it can assume the role of “price setter” requiring generally that smaller rivals be “price takers,” generally setting their prices in relation to those charged by the dominant firm. Another test for dominance may be stated in terms of Minimum Viable Scale (“MVS”), whereby the dominant firm is sufficiently large that no rival can reasonably operate at or above MVS. Where network externalities are present, as is the case with yellow pages directories, the dominant firm will benefit from first-mover advantage such that rivals may never be capable of attaining a market base sufficient to provide a meaningful challenge to the dominant incumbent.
- (d) Yes. See response to 124(b) *supra*.
- (e) No.

¹ United States Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines*, §1.1.0, http://www.usdoj.gov/atr/public/guidelines/horiz_book/10.html, accessed December 27, 2004.