

DOUGLAS N. OWENS

ORIGINAL RECEIVED

FILE

JUN - 2 1992

LAW OFFICES
4705 16TH AVE. N.E.
SEATTLE, WA. 98105
TELEPHONE: (206) 527-8008
FAX: (206) 527-0725

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RECEIVED

JUN 2 1992

June 1, 1992

FCC MAIL BRANCH

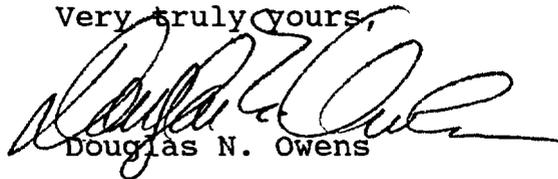
Ms. Donna Searcy, Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: *In the Matter of Billed Party Preference for 0+ InterLATA Calls*, CC Docket No. 92-77

Dear Ms. Searcy:

Enclosed are the original and nine copies of the Comments of the Northwest Pay Phone Association in the above docket. Please accept the same for filing.

Very truly yours,


Douglas N. Owens

cc: Ray Orme

No. of Copies rec'd DTJ
List A B C D E

ORIGINAL
RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

JUN - 2 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Billed Party Preference)
for 0+ InterLATA calls)

CC Docket No. 92-77

RECEIVED

JUN 2 1992

FCC MAIL BRANCH

COMMENTS OF THE NORTHWEST PAY PHONE ASSOCIATION

Douglas N. Owens
4705 16th St. N.E.
Seattle, Washington 98105
(206) 527-8008

Its Attorney

June 2, 1992

TABLE OF CONTENTS

I. SUMMARY	1
II. STATEMENT OF INTEREST	3
III. THE PUBLIC INTEREST BENEFITS OF THE PROPOSAL ARE SIGNIFICANT.	3
<u>A. The customer should decide on whether to have a proprietary access code card or a nonproprietary 0+ card, after being informed of the relative benefits of each.</u>	7
<u>B. IXC's would distinguish and screen proprietary and nonproprietary calls by obtaining access to validation information held by the card issuer.</u>	7
<u>C. Carriers should not be required to block 0+ calls made by customers using proprietary cards; such blockage is a step backwards.</u>	8
<u>D. At a minimum, OSPs should be given valid-or-not-valid information and for valid accounts, customer billing name and address information, to bill 0+ calls made on calling cards.</u>	8
IV. CONCLUSION	10

RECEIVED

JUN - 2 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. OFFICE OF THE SECRETARY

In the Matter of)
)
Billed Party Preference) CC Docket No. 92-77
for 0+ InterLATA calls)

COMMENTS OF THE NORTHWEST PAY PHONE ASSOCIATION

The Northwest Pay Phone Association ("NPPA"), pursuant to §§1.415 and 1.419 of the Rules and ¶54 of the Notice issued May 8, 1992 in this Docket,¹ submits its comments supporting the proposed requirement discussed at ¶42 of the Notice, that IXCs share with other IXCs, billing and validation data for any card usable with 0+ access. NPPA submits that the clearly anticompetitive effect of the use by AT&T of its Card Issuer Identification (CIID) format card, and the statutory requirements of Section 1 of the Act, are sound reasons for the Commission to require such sharing.

I. SUMMARY

The NPPA submits that the use of CIID cards by AT&T as a lever to drive public telephone premises owners into presubscribing AT&T for operator services, is inconsistent with sound public policy toward the dominant interexchange carrier. The deliberate introduction by AT&T or other carriers, of a calling card whose function is to block communications if the customer happens to dial 0+ instead of an access code on a pay telephone that is

¹In the Matter of Billed Party Preference for 0+ InterLATA Calls, Notice of Proposed Rulemaking, FCC 92-169, released May 8, 1992.

themselves to block 0+ calls made on proprietary cards, but they should be permitted to carry such traffic, after advising the customer that he or she should dial an access code to be connected to the network of the issuing carrier.

II. STATEMENT OF INTEREST

The NPPA is a nonprofit association of competitive payphone owners (PPOs). NPPA's headquarters is located at 6354 6th Ave. S., Seattle, Washington 98104. The members of NPPA include larger as well as smaller PPOs with operations in one or more of the states of Washington, Oregon and Idaho. The members of NPPA earn commissions from 0+ calls made on their equipment. Some members use "store and forward" (SAF) technology in their pay telephones, which allows call processing to occur within the pay telephone, including the storage of the calling card number for later use in billing the customer. The members of NPPA are directly affected by the introduction by AT&T of its CIID format card, and by the proposed requirement in this docket that issuers of such cards share billing and validation information in order for such cards to be used for 0+ access calling.

III. THE PUBLIC INTEREST BENEFITS OF THE PROPOSAL ARE SIGNIFICANT.

The public interest benefits of the proposal to require sharing of billing and validation data for any calling card than may be used to originate 0+ calls, are significant and they clearly outweigh the costs, if any. AT&T contends that the benefit of the current system, in which calls on a CIID card to 0+ presubscribed to another carrier are blocked, is that customers can "ensure that

presubscribed to a carrier other than the card issuer, is inconsistent with the Commission's statutory goal to "make available ..to all the people of the United States..efficient, Nation-wide..communication service, with adequate facilities at reasonable charges.."2

NPPA submits that the alleged public interest benefits of the introduction of CIID cards that cannot be validated on 0+ calls by a carrier other than the issuing carrier, are overblown and incorrectly assume the failure of the Commission's actions to implement the Telephone Operator Consumer Services Improvement Act.³ The public interest costs of such cards are significant, including denigration of the overall quality of communications that customers expect: the expectation that when a call is properly dialed, and a valid calling card number is entered at the appropriate time, and the called number is not busy, the call will complete. Additional public interest costs include the restriction of consumers' choice of operator services provider for the private business benefit of the card issuer.

The NPPA recommends that any CIID card issuer be required to provide billing and validation information to other IXCs, that such information include at a minimum, whether or not the proprietary account number involved is valid, and necessary Billing Name and Address information to permit the carrying IXC to bill the customer. The NPPA submits that IXCs should not be required

²47 U.S.C. §151.

³Pub. L. 101-435, 104 Stat 986 (1990), 47 U.S.C. §226.

they are receiving service from AT&T, and to do so without the burden of dialing access codes."⁴ In the first place, this claim is a *non sequitur*; if the pay telephone is presubscribed to another carrier than AT&T, and the call is therefore blocked, the only way the customer can "ensure" service on AT&T's network is to use an access code. In the second place, this "insurance," takes the form of wasteful blockage of calls and ignores the best insurance, which is paying attention to the required carrier identification.

AT&T also claims that "many customers" despite the required identification of itself by another OSP, mistakenly assume they are receiving service from AT&T when they dial 0+. AT&T notes the consumer complaints about other OSPs and claims that the current CIID arrangement is a consumer protection.⁵ It is at least questionable that AT&T is entitled to claim to speak for holders of CIID cards as dedicated to AT&T's service. The Chief of the Common Carrier Bureau recently found that AT&T's discriminatory application of Optional Calling Plan (OCP) discounts to pressure holders of nonproprietary calling cards to use only the CIID cards, was potentially violative of §202 of the Communications Act, and ordered an investigation into tariff modifications that would have facilitated this plan.⁶ In any case, AT&T has not shown that all

⁴Notice, at ¶37. [emphasis in original].

⁵Id.

⁶In the Matter of AT&T Communications Revisions to Tariff F.C.C. No. 1, Transmittal Nos. 3380, 3537, 3542 and 3543; Memorandum Opinion and Order, DA 91-1583, Dec. 19, 1992, 7 FCC Rcd. 156 (1992).

holders of its proprietary cards always want to use *only* AT&T's operator services; yet that is the effect of the current CIID system. The decision by AT&T to extend credit to a proprietary card holder, is now used to restrict that card holder's access to other providers of operator services than AT&T, even if the card holder at the time of making a call, wants those other services instead of AT&T's.

The proposal to require sharing of billing and validation data for cards used to originate 0+ calls would correct these inadequacies. Above all, it addresses communications from the viewpoint of the consumer; when the 0+ call is dialed correctly, and a valid calling card number is entered, *the call will complete, which is not now the case, if the pay phone happens to be presubscribed to a carrier other than AT&T.* The proposal also gives the consumer credit for knowing what he or she is doing when making a 0+ call, and being able to understand the carrier's self-identification and being able make a rational decision whether or not to dial an access code, based on that information. The proposal eliminates friction that has been artificially created, in the customer's carrier selection decision at the time of making the call. These are clearly public interest benefits of substantial scope.

In addition, the proposal would eliminate AT&T's ability to impose disadvantages on its competitors that relate solely to AT&T's relative size. Pay phone providers who use SAF technology, incur validation costs to process calls made with proprietary

cards, even though the calls cannot be completed because only AT&T can actually validate the cards. These costs are economic waste, and they show the economic inefficiency of the current proprietary card system.

The alleged public interest costs of the proposal are that some consumers, despite the carrier self-identification required by law, will mistakenly believe they are receiving AT&T's service when they use the AT&T proprietary card. On its face, this is a cost of dubious weight. Other carriers have argued against making proprietary card validation data available to competitors, because of supposed "special services" that will be available only on these carriers' networks, and confusion by customers when they do not receive the services, or when they receive multiple bills from multiple carriers for charges on a single card.⁷ Again, these arguments assume that consumers do not understand the carrier self-identification that is given before the call is processed.

AT&T claims that requiring it to permit validation of its proprietary cards on other carriers' networks is giving such carriers a "free ride."⁸ While this might conceivably be a private cost, not a public cost, even that cost could be offset by a reasonable validation charge. As for the claim that the

⁷*In the Matter of Cincinnati Bell Telephone Company Revisions to Tariff FCC No. 35, CC Docket No. 89-323, Memorandum Opinion and Order, January 25, 1990, FCC 90-30, 5 FCC Rcd. 805 (1990) at ¶21.*

⁸*In the Matter of Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, CC Docket No. 91-115, Report and Order and Request for Supplemental Comment, FCC 92-168, May 8, 1992 at ¶72.*

proprietary cards were created to increase usage on AT&T's network and requiring non discriminatory validation would impair that goal, here AT&T's private interest and the public interest diverge. Increased usage on AT&T's network should be in response to better service, not to artificial restriction on availability of information about customers' accounts that is necessary to complete calls, to other carriers that the customers have chosen to make particular calls.

A. The customer should decide on whether to have a proprietary access code card or a nonproprietary 0+ card, after being informed of the relative benefits of each.

The decision between using a proprietary card that requires use of an access code and a nonproprietary card that can be used for 0+ dialing, should be the consumer's. The consumer can balance the convenience of 0+ dialing with the need to be certain a particular carrier is handling all or some of the calls placed on the calling card. If customers are coerced to take the proprietary card, as was indicated in *In the Matter of AT&T Communications Revisions to Tariff F.C.C. No. 1*, Transmittal Nos. 3380, 3537, 3542 and 3543, Memorandum Opinion and Order Dec. 19, 1991, DA 91-1583, 7 FCC Rcd. 156 (1992), the customer is also being deprived of the choice of the presubscribed carrier when making any specific call.

B. IXC's would distinguish and screen proprietary and nonproprietary calls by obtaining access to validation information held by the card issuer.

Under the assumption that the necessary validation information would be made available by AT&T to the IXC's, screening would occur through links to the database in which that information exists.

Since there should not be a line number or RAO number that duplicates the first ten digits of a CIID format number, a table in a database would be a means to distinguish proprietary from nonproprietary cards used in 0+ calling.

C. Carriers should not be required to block 0+ calls made by customers using proprietary cards; such blockage is a step backwards.

Consumers should again, be given credit for understanding what they are told in the carrier self-identification that is required by law. If such consumers have been told that the carrier that is presubscribed is different from the issuer of the proprietary card, their decision to continue with the call as dialed, should end the matter. The proposal to have carriers block 0+ calls made with a proprietary card denies the consumer the freedom to choose, for a particular call, to use an operator services provider other than the card issuer. Such a proposal is also a step backwards. The enactment of TOCSIA is a strong statement of general community frustration with blockage of calls based on parochial economic interests.

D. At a minimum, OSPs should be given valid-or-not-valid information and for valid accounts, customer billing name and address information, to bill 0+ calls made on calling cards.

Pursuant to the Commission's jurisdiction to ensure rapid and efficient communications, and the obvious necessity in a practical sense, for IXCs who are tendered calls by customers to have information necessary to decide whether or not to accept the call, any issuer of a card that is usable for 0+ calling should provide at a minimum, information on whether the card and PIN are valid,

and if so, the card holder's billing name and address. Failure to require the provision of these items will result in IXCs declining to accept 0+ calls made on proprietary cards, even when the cards are valid and being used by authorized persons. Such a development is not consistent with the Commission's paramount statutory duty to the public, of furthering rapid and efficient communications on adequate facilities.

E. Consumers will benefit from being restored the freedom to choose and from not serving as pawns in struggles over presubscriptions of pay telephones.

As discussed above, consumers who hold proprietary cards will under the proposal, have the freedom to choose on each call, whether or not to use the presubscribed carrier, even if that is other than the card issuer. This is a consumer benefit. Consumers need not obtain cards from every carrier they may wish to do business with, in order to have their calls complete when they dial 0+. This is also a substantial consumer benefit. When consumers' calls complete, they do not become angry over noncompletion, and they therefore do not serve as a marketing force to drive the proprietor of the establishment where the pay phone is located, to presubscribe with AT&T. Because economic waste from access charges, holding time and validations for attempted validation of proprietary cards that cannot be validated by other carriers will be eliminated under the proposal, consumers should also benefit in that general rate levels under competition should reflect the elimination of this waste.

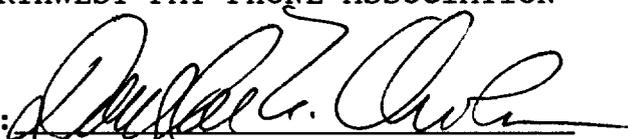
IV. CONCLUSION

IV. CONCLUSION

NPPA respectfully submits that the proposal to require sharing of validation and billing information for any card that is used to generate 0+ traffic should be accepted by the Commission. This proposal benefits the public interest at little or no public cost.

Respectfully submitted,

NORTHWEST PAY PHONE ASSOCIATION

By: 

Douglas N. Owens
4705 16th Ave. N.E.
Seattle, Wa. 98105
(206) 527-8008

Its Attorney

June 2, 1992