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BEFORE THE

Federal Communications Commission

ORIGINAL FILE

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

REPLY COMMENTS
OF THE
AIRPORTS ASSOCIATION COUNCIL INTERNATIONAL - NA

In its Initial Comments in this proceeding, the Airports Association Council International - North America ("AACI-NA"), on behalf of its U.S. members, opposed implementation of billed party preference unless and until two conditions were satisfied. First, we asserted that the Commission should refrain from mandating this new service absent incontrovertible proof that the public will suffer no harm from its implementation. That test has not been met: the record compiled in this docket strongly suggests that the detriments of billed party preference -- degradation of service quality, increased rates to end users and curtailment of service enhancements -- are, if anything, more serious than was initially apparent. We will show in these Reply Comments that those parties who unqualifiedly urge the Commission to adopt billed party preference have failed to adequately address or have glossed over these issues.

Second, AACI-NA maintained that unless billed party preference is integrated into a regulatory system that assures fair and

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reasonable compensation to the central role airports play in the provisioning of public telephone service, the overall availability and accessibility of such service may diminish, to the ultimate detriment of the public. If the Commission elects to go forward with billed party preference despite its shortcomings, it must first establish a regulatory mechanism assuring fair compensation to premises owners and other payphone providers. The parties who have addressed this issue all agree that this requirement must be satisfied. We show in these Reply Comments that the need for such a mechanism and the basic principles regarding the scope and measurement of compensation are agreed upon. The proceeding must be enlarged so that the level of compensation and implementing arrangements can be developed.

In support, the following is stated:

Concerns About Degradation in Quality of Service, Increased Cost to End Users and Curtailment of Service Enhancements Have Not Been Put to Rest

1. Service Quality. There is a consensus that the "double operator" problem identified in the Notice of Proposed Rulemaking ("NPRM")[1/] is real: if billed party preference were implemented today, callers would be required to provide certain information about their calls twice and would be required to do so verbally.[2/]

1/ Billed Party Preference for 0+ InterLATA Calls, CC Docket No. 92-77 (released May 8, 1992).

2/ See, e.g., Comments of U.S. West Communications, Inc. ("U.S. West") at 7.

The proponents of billed party preference contend that this problem may be ignored because of the anticipated development and ultimate deployment of Automated Alternate Billing Services ("AABS") technology.[3/] However, it is far from clear that AABS will solve the problem of repetitive information and, moreover, this technology creates problems of its own.

Without modification, AABS would still require repetitive information for collect, third-party and person-to-person calls.[4/] Although AABS technology is still in the developmental stages and apparently can be modified, the record provides no reliable evidence as to how long this will take, how much it will cost and whether it will in fact work. We urge the Commission to be extremely skeptical about relying on an unknown and unproven technology as the solution to the "double operator" problem created by billed party preference.

Further, AABS does not address the second service quality problem inherent in billed party preference: post-dial delay. Indeed, the need to employ AABS technology with billed party preference (in order to avoid repetitious information) exacerbates the problem of access time. The record discloses that billed party preference based upon SS7 transfers and AABS menu and selection

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3/ See, e.g., Joint Comments of the Illinois Commerce Commission, the Indiana Utility Regulatory Commission, the Public Utilities Commission of Ohio, and the Public Service Commission of Wisconsin ("the State Commissions") at 9; Comments of the Ameritech Operating Companies at 14.

4/ See Comments of U.S. West at 8-9.

protocols will increase processing time by as much as 30 seconds.[5/] Some parties suggest that some additional post-dial delay should be tolerated because it may be offset by reduction in dialing time.[6/] But, the time "savings" resulting from elimination of the five-digit access code would occur only in the case of calls which would have been dial-around calls; thus, the many 0+ calls that are made today using the presubscribed IXC will experience an increase in total elapsed calling time. In any event, as U.S. West correctly points out, any savings in time resulting from elimination of the need to dial an access code is entirely lost in an environment in which total processing time is increased by as much as 30 seconds.[7/]

Thus, the solution to the "double operator" problem put forth by the proponents of this new service is, at best, speculative. The problem of post-dial delay has proven to be far more serious than was earlier forecast. It is now clearer than ever that billed party preference replaces one source of consumer frustration -- confusion over access codes -- with others -- repetitive information and post-dial delay -- that are even worse.

5/ See Comments of U.S. West at 12-13.

6/ See Joint Comments of the State Commissions at 10.

7/ Comments of U.S. West at 12-13; see also Comments of BellSouth Telecommunications, Inc. ("BellSouth") at 15 (time savings realized through billed party preference would be offset by the additional time required to identify the preferred carrier, provide customer instruction and transfer the caller to the preferred carrier).

2. Cost. The cost implications of billed party preference have also been proven to be far more serious than originally anticipated. The record on this issue is not complete: a number of local exchange carriers (particularly the smaller independent carriers) did not comment or supply data; vendor prices are in some situations unknown;[8/] and it is unclear whether the data actually supplied includes the cost of modifying and then implementing AABS, which, as it has turned out, is an essential ingredient to the deployment of billed party preference. But, even as it stands, the record affords a basis for projecting that the total cost of this new service will be substantial -- almost certainly amounting to more than $1 billion and perhaps as much as $2 billion in start-up costs (capital expenses and one-time charges) and tens, if not hundreds, of millions of dollars in annual operating costs.[9/]

Moreover, the record confirms that these costs cannot be fully recovered absent substantial rate increases to end users or the imposition of rules which force consumers to use the service. The relevant test for assessing the impact of billed party preference on rates paid by end users is the relationship of the cost of implementation and operation of billed party preference to the specific revenue base available to support the service; it cannot be assumed that the increased cost of service will be offset by a

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8/ See Comments of Bell Atlantic, Attachment A at 1-2.

9/ See, e.g., Comments of Polar Communications Corporation at 8; Comments of Value-Added Communications, Inc. at 3.

commensurate reduction in commissions paid to premises owners.[10/] Given the absolute cost of implementation and operation of billed party preference, there is reason to be concerned that the revenues from interstate interLATA payphone service will be insufficient to support billed party preference.[11/]

The local exchange carriers acknowledge that this concern is well founded. Several of the carriers state that, even if billed party preference is made applicable to all 0+ and 0- traffic (thereby broadening the available revenue base), traffic volumes for this service still may not be sufficient to fully recover the costs of implementation and operation.[12/] Thus, it is now plain that billed party preference can be made economically viable only by improperly (and probably unlawfully) requiring consumers to subsidize the cost of the service even if they do not use it.[13/] This solution must be rejected: if -- as it now appears -- the inherent demand for billed party preference is insufficient to fully recover the cost of the service to telephone companies, the service is contrary to the public interest by definition.

10/ See Comments of AACI-NA at 7-8; Comments of the Pennsylvania Public Utility Commission ("PaPUC") at 7.

11/ See Comments of AACI-NA at 8.

12/ See Comments of GTE Service Corporation and its affiliates ("GTE") at 12; Comments of Southwestern Bell Telephone Company at 11-12.

13/ See Comments of GTE at 13; Comments of U.S. West at 19-20; Comments of NYNEX Telephone Companies at 16-20.

3. Service Flexibility. Among other things,[14] the advocates of billed party preference offer no substantive solution to the problem this service will create with respect to calls billed to users in foreign countries and to commercial credit cards. These are matters of particular concern to airports because, in recent years, airport operators have undertaken major campaigns to make their facilities as friendly and comfortable to international travelers as possible and because a number of airports have installed payphones specifically designed to handle commercial credit cards.[15]

Acknowledging that billed party preference cannot now accommodate these types of calls, the advocates suggest that the interests of international travelers and callers who prefer to use credit cards be ignored[16] or addressed -- after implementation of the new service -- in a separate proceeding.[17] Ignoring the legitimate interests of these consumers is not an option. We are not alone in reaching the conclusion that billed party preference

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14/ Advocates of billed party preference have not addressed the negative impact that the service will have upon voice recognition technology and "smart" payphones. See Comments of AT&T at 15-16; Comments of AACI-NA at 9; Comments of the Independent Payphone Association of New York, Inc. at 12-13.

15/ See Comments of AACI-NA at 10.

16/ See Comments of Pacific Bell and Nevada Bell at 16; Comments of Missouri Public Service Commission at 4; Comments of BellSouth at 18-19.

17/ See Comments of GTE at 10; Comments of United States Telephone Association ("USTA") at 9.

ought not to be implemented if it significantly disadvantages important segments of the public -- including those who prefer to (or must) use commercial credit cards or cards issued by service providers in their home countries.[18/] At the very least, the Commission must, in the public interest, refrain from mandating billed party preference until its effects upon all segments of the telephone-calling public have been fully assessed. If that assessment is to be partially deferred pending the outcome of further proceedings -- as USTA has suggested -- then implementation of billed party preference itself must be deferred pending the outcome of those proceedings.

There is Agreement that Billed Party Preference Must be Integrated into a Regulatory System that Assures Fair and Adequate Compensation to Premises Owners

1. Need for a Compensation Mechanism. There is a clear recognition among the parties -- including some of the strongest advocates of billed party preference -- who have submitted comments on the issue of premises-owner compensation that billed party preference poses special economic problems with respect to the provisioning of payphones and other public phones. This is because the premises owner -- not the caller or the billed party -- exercises "ultimate control" over the availability and accessibility of payphone service.[19/] Furthermore, the premises owner has

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18/ See Comments of AT&T at 18.

19/ Comments of AACI-NA at 3-4.

legitimate economic interests and concerns which are quite distinct from those of telephone companies and end users. The impact of billed party preference upon the economics of payphone provisioning is of particular importance to airport operators because airports cannot avoid legal and economic imperatives to take steps necessary to "make the airport as self-sustaining as possible."[20/] PaPUC has, therefore, correctly (and succinctly) explained why there is a need to assure that the legitimate economic interests of premises owners are taken into account: in the absence of a "mechanism to compensate payphone providers for all operator assisted calls," billed party preference "would offer little incentive for payphone owners or providers to install public payphones."[21/] Local exchange carriers agree.[22/]

If premises owners are denied incentives to arrange for payphone service, the public will suffer harm. To the extent that billed party preference eliminates or substantially reduces commissions which airports now receive for their role in the provisioning of payphone service, airports would have to take some actions to ensure that other businesses or tenants at the airport would not be burdened with these unrecovered costs; these actions

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20/ Comments of AACI-NA at 3 (citing Airport Development Assurance No. 28, Appendix D, 214 C.F.R. Part 152); see also Comments of AACI-NA at 11-13.

21/ Comments of PaPUC at 13; see also Comments of the New York City Department of Telecommunications and Energy at 13.

22/ See, e.g., Comments of Bell Atlantic at 9; Comments of U.S. West at 14-15.

could well include curtailment of the number and location of payphones at airport facilities. The same or similar considerations undoubtedly apply to other premises owners.[23/]

It may be true that billed party preference would serve to "focus competition in operator services towards end users" and that this is a desirable goal.[24/] However, it is also true that this "apparent advantage"[25/] must be tempered by recognition of the underlying economic realities involved in the provisioning of payphones -- if harm to the public is to be avoided. The regulatory agencies and the local exchange carriers have correctly recognized that billed party preference threatens a diminution in the accessibility and quality of this service to the public absent regulations assuring that premises owners and other payphone providers receive fair and reasonable compensation for the crucial role they play in payphone service.

2. The Scope and Measure of Compensation. There is also general agreement that the payphone compensation mechanism established by the Commission must apply to all payphones and must be based on an accurate and fair measure of cost and value. Specifically, the compensation mechanism must encompass "all operator-assisted calls" and should therefore be applicable to

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23/ See, e.g., Comments of the New York City Department of Telecommunications and Energy at 9-11.

24/ NPRM at ¶ 19.

25/ Id.

calls originating on telephone-company-supplied as well as privately-supplied payphones.[26/] Otherwise, premises owners will be impelled to opt for private payphone service in order to protect their economic interests; competition between private and telephone-company-supplied payphones will thus be skewed. Further, the compensation mechanism must be on a "per message basis" rather than a flat-fee ("average-based") surrogate.[27/] The disruptive effects of billed party preference upon competition and upon the availability and accessibility of payphones will be most heavily felt in "high volume, long-distance markets."[28/] Payphones at airports, and particularly those located in gate and common/ticket areas, constitute extremely "high volume, long-distance markets." These payphones experience levels of usage that are three or more times greater than average[29/] with the result that a flat-fee mechanism would fall far short of accurately reflecting the value that airports provide in facilitating the availability of payphone service to the public. The local exchange carriers properly recognized that a per call or usage sensitive measure of compensation is necessary to assure the continued accessibility and convenience of payphone service to the public.

26/ See Comments of U.S. West at 14; accord Comments of PaPUC at 13.

27/ Comments of U.S. West at 15.

28/ Id. at 14.

29/ Comments of AACI-NA at 18.

3. Further Proceedings. It is clear that the Commission has the legal authority to adopt rules which integrate an appropriate compensation mechanism with billed party preference and that there are at least two alternative ways of accomplishing this.[30/] The need for such a mechanism and the basic principles which govern its scope and measure of compensation are agreed upon. The Commission should, therefore, issue a supplemental notice of proposed rulemaking in this docket for the purpose of determining the precise level of compensation to be prescribed and to establish implementing procedures. It should refrain from authorizing the implementation of billed party preference until such time as the regulatory system assuring fair and reasonable compensation to premises owners has been put in place.

Respectfully submitted

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30/ See id. at 15.