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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Policies and Rules Concerning Toll Fraud	)))	CC Docket No. 93-292

COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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SUMMARY

APCC supports the formation of an advisory committee on toll fraud that would be directly supervised by the Commission. Such an advisory committee is likely to be more effective in the formation of a complete federal policy regarding liability for toll fraud than the Toll Fraud Prevention Committee, whose confidentiality rules inhibit its effectiveness.

APCC strongly supports the Commission's proposal to "establish a federal policy assigning liability for payphone fraud." In prior proceedings, the Commission has clearly recognized that interstate and international toll fraud is a matter for federal policymaking and that assignment of liability for toll fraud cannot be left to unilateral private action by individual carriers.

Now that the FCC has mandated that network-based services be provided to IPP providers to safeguard them from fraud, the Commission must establish that IPP providers who utilize those services are insulated from liability for fraud which would have been prevented had those services been deployed by the service providers in a proper fashion. Without federal action, carriers will have no incentive to stop the practice of unilaterally shifting liability from themselves to the "customer." The Commission must change the system for assigning liability for toll fraud to encourage the carriers to help prevent fraud.

Independent public payphone (IPP) providers have a role to play in preventing fraud, but it is inefficient to shift all the burden of preventing fraudulent calls to IPP providers.

Payphone providers' obligations must be clearly and precisely defined so that IPP providers will understand precisely what measures they must take to avoid liability. IPP providers who subscribe to blocking and screening services should be completely protected from charges for calls these services are designed to prevent.

The Commission should reaffirm the United Artists decision and expand on the principles enunciated in that case. The reasoning of United Artists that payphone providers who take "reasonable steps" to prevent fraud should not be liable for charges from fraudulent calls should be extended to "customers" of the IXCs as well as those who are not customers. As the policy stands now, LECs escape liability for fraudulent calls made from their own payphones regardless of whether the LEC took any steps to prevent fraud, while IPP providers who are customers of the IXC are responsible for all fraudulent calls, no matter how many steps the IPP provider took to prevent fraud.

The Commission should adopt the approach of the Florida Public Service Commission on assigning liability for toll fraud, albeit in an expanded fashion. Under the Florida approach, if the IPP provider subscribes to blocking and screening, the IXC cannot hold the payphone company liable for charges resulting from fraudulent calls, whether or not the IPP provider is a customer of an IXC. This policy should be expanded to international direct-dialed, as

well as operator-assisted calls. International direct-dial blocking should also be expanded to include calls to the "809" area code.

The Commission should also require carriers to implement additional network-based precautions against dial tone reorigination and increased safeguarding of the network interface. All carriers should be required to engage in fraud monitoring and the Commission should consider in a public proceeding whether to assign 8000 and 9000 to payphones.

The Commission should set out a clearly defined federal policy regarding assignment of liability for toll fraud and should not leave the matter to the individual carriers to implement in their tariffs.

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The American Public Communications Council ("APCC") submits the following comments in response to the Notice of Proposed Rulemaking in In the Matter of Policies and Rules Concerning Toll Fraud, CC Docket No. 93-292, released by the Federal Communications Commission ("FCC") on December 2, 1993.

STATEMENT OF INTEREST

APCC is a council of the North American Telecommunications Association ("NATA"), and is made up of more than 280 competitive providers of non-telephone company, independent public payphones ("IPPs") and other communications facilities. APCC seeks to promote competitive markets and high standards of service for IPPs and for public communications generally.

Toll fraud is a major concern for IPP providers. IPP providers make their telephones available to all members of the public and have no significant control over who has access to their payphones. In addition, unlike payphones that are provided by the local exchange carrier ("LEC"), IPPs are required to be interconnected with the public network on essentially business lines and have "billable" numbers. Thus, IPP providers are billed for calls that originate or terminate at the payphone in the same

way as any other subscriber is billed for calls that originate or terminate at its telephone. Yet, IPP providers cannot control access to their payphones as other subscribers can. This combination of circumstances makes IPP providers particularly vulnerable to fraud and creates tremendous exposure to large bills for fraudulent calls.

Most of APCC's members are small businesses; the threat of liability for charges resulting from fraudulent calls causes an enormous financial burden. This financial burden includes not only the expenses of fraud prevention measures, such as special programming and subscription to blocking and screening services, but also the expense of litigation and/or payments made in satisfaction of judgments, and/or settlement of interexchange carrier ("IXC") claims. IPP providers are also saddled with the heavy administrative burdens of policing bills from the LECs and of constant negotiating with carriers over the responsibility for fraudulent calls. The financial burdens and exposure resulting from fraud are a serious threat to every IPP provider's ability to continue doing business.

APCC has been very active in the area of preventing toll fraud and has submitted extensive comments in FCC proceedings in which payphone-related fraud was at issue, including CC Docket No. 90-313, Policies and Rules Concerning Operator Service Providers; CC Docket No. 91-35, Policies and Rules Concerning Operator Service Access and Payphone Compensation; and File No. 93-TOLL FRAUD-02,

Florida Public Service Commission Petition For Review of Tariff Provisions Relating to Liability for Toll Fraud Charges.

DISCUSSION

I. APCC SUPPORTS THE COMMISSION'S PROPOSAL TO ESTABLISH A FEDERAL ADVISORY COMMITTEE TO EXPLORE SPECIFIC SOLUTIONS TO TOLL FRAUD ISSUES.

The Commission requests comment on whether to establish a new federal advisory committee representing all affected interests, which would recommend specific solutions to toll fraud. Notice, ¶ 13. APCC supports the formation of such an advisory committee. An advisory committee on toll fraud has significant advantages over existing industry groups such as the Toll Fraud Prevention Committee ("TFPC"). Although the TFPC's work may have been somewhat beneficial to the efforts to prevent toll fraud, this approach has had serious shortcomings. The Committee's confidentiality provisions and the lack of direct FCC involvement in its work have had the effect of preventing public discussion and effective Commission oversight of the Committee's deliberations on how to combat and prevent fraud. For instance, a proposal to set aside for payphones telephone numbers in the "8000" and "9000" series was discussed in the Toll Fraud Prevention Committee. APCC is arguably barred from even publicly discussing the outcome of these deliberations[1] and, if it is so barred, it is, a fortiori,

[1] As we discuss below, this numbering scheme has not generally been implemented with respect to IPPs. Failure to resolve this issue hinders efforts to combat toll fraud at public payphones. APCC therefore requests that the FCC consider this issue in a public proceeding. See below.

barred from discussing the reasons advanced in those deliberations because of the confidentiality rules adopted by the Committee. For this reason, an Advisory Committee directly supervised by the Commission is likely to be more effective in the formation of a complete federal policy regarding liability for toll fraud.

Formation of an advisory committee, however, must not stand in the way of immediate action to establish an equitable and effective federal policy on payphone fraud. As discussed below, the Commission must take prompt action to redress the imbalance in allocation of liability between carriers and payphone owners, and delineate clearly defined steps that payphone providers can take in order to limit their liability for fraudulent charges.

II. A CLEAR, COMPREHENSIVE FEDERAL POLICY IS NECESSARY TO CORRECT FUNDAMENTAL INEQUITIES AND DISINCENTIVES IN THE CURRENT "SYSTEM" FOR ASSIGNING LIABILITY FOR TOLL FRAUD INVOLVING PAYPHONES.

APCC welcomes the FCC's efforts to combat toll fraud. APCC strongly agrees that private action cannot resolve all toll fraud problems and that incentives to control fraud need to be modified by government action. Notice, ¶ 1. In particular, APCC strongly supports the Commission's proposal to "establish a federal policy assigning liability for payphone fraud." Notice, ¶ 1.

Toll fraud can only be combatted through federal action. Only the FCC can effectively address the allocation of responsibility for charges resulting from unauthorized interstate and international calls billed to payphones. The Commission has

already recognized the need for federal action to combat toll fraud and has begun the effort. In CC Docket No. 91-35, the Commission mandated that LECs provide federally-tariffed international direct dial blocking ("IDDB") services because existing state-tariffed services were not universally available to protect against international toll fraud. Policies and Rules Concerning Operator Service Access and Payphone Compensation, Order on Reconsideration, 7 FCC Rcd 4355, 4359-62 (1992) ("10XXX Reconsideration"), further recon., 8 FCC Rcd 2863 (1993) ("10XXX Further Reconsideration"). In United Artists Payphone Corp. v. New York Tel. Co. and AT&T, 8 FCC Rcd 5563 (1993), the Commission recognized that IXCs were unreasonably using their tariffs to hold the IPP provider liable for fraud, even when the IPP provider took reasonable steps to prevent fraud, and even when the IPP provider was not a subscriber to the IXC. In these proceedings, the Commission clearly recognized that interstate and international toll fraud is a matter for federal policymaking and that assignment of liability for toll fraud cannot be left to unilateral private action by individual carriers.

In the Notice, the Commission asks whether a federal fraud policy is necessary to apportion the costs of payphone fraud, or whether it would be enough to require individual carriers to spell out in their tariffs how they intend to assign liability for fraud. Notice, ¶ 31. The experience to date shows that a federal policy regarding liability for toll fraud at payphones is necessary to

ensure an equitable and effective system for preventing such fraud. The Commission cannot effectively review and prescribe fraud policy on an ad hoc basis in response to each individual carrier's tariffs. Further, carriers currently have no incentive to stop the practice of unilaterally shifting liability from themselves to the "customer." Thus, the Commission should take this occasion to prescribe a settled federal policy on liability for payphone fraud.

Now that the FCC has mandated that network-based services be provided to IPP providers to safeguard them from fraud, the Commission must establish that IPP providers who utilize those services are insulated from liability for fraud which would have been prevented had those services been deployed by the service providers in a proper fashion. IPP providers who take such "reasonable steps" must be insulated from liability whether or not they are "customers" of the IXCs. Otherwise, carriers will have insufficient incentive to implement network-based fraud prevention systems that work. As long as IPP providers can be assessed charges for fraudulent toll calls that screening and blocking services were designed to prevent, the LECs and IXCs will have insufficient incentive to ensure that their services are effectively implemented.

Federal policy must correct two basic inadequacies in the current "system" for assigning liability for toll fraud. First, there is blatant inequity between treatment of the LECs and IPP providers: carriers attempt to hold IPP providers liable --

regardless of fault -- for all fraud occurring at IPPs, while LECs are not liable -- regardless of fault -- for any fraud occurring at their payphones.[2]

Second, the existing system fails to provide adequate incentives for carriers -- LECs or IXCs -- to implement effective fraud prevention measures. Instead, the system places disproportionate responsibility on the IPP provider, the party who is least able to take effective measures to prevent fraud.

A. The Inequity in Liability Must be Corrected.

IXC tariffs currently hold IPP providers strictly liable for charges resulting from fraudulent toll calls. IPP providers are made responsible for unauthorized toll calls even if they have done everything in their power to prevent toll fraud and the fault lies with a carrier that failed to properly screen the fraudulent call. At the same time, LECs are completely insulated from liability for fraudulent calls made from their payphones.

Although IXCs currently bill IPP providers for any fraudulent calls that are associated with their payphones, IXCs do not seek to collect from the LECs for fraudulent calls billed to payphones provided by the LECs. Instead, the IXC absorbs those losses as a

[2] The LEC plays two roles in the area of payphones. First, the LEC connects IPP providers to the network and, according to the Commission's mandate, must offer blocking services at all IPPs. At the same time, the LEC operates its own public payphones, which offer service in competition with that provided by IPPs.

cost to the network.[3] In contrast, IPP providers are billed by the IXCs for all fraudulent calls and are vulnerable to enormous potential liability for fraudulent toll call charges. There can be no justification for this enormous disparity in the treatment of IPPs and LEC payphones. Federal policy must equalize standards of liability between IPPs and LEC payphones so that IPP providers who subscribe to fraud prevention services, at least, are insulated from liability in the same way the LECs are insulated from liability.

B. Incentives to Prevent Fraud Must be Corrected.

Under the current system, neither LECs nor IXCs have adequate incentives to prevent fraud. In its role as the connection between the payphone and the network, the LEC receives access charges and, in most instances, billing and collection fees, for every completed call, whether the call is legitimate or fraudulent. Therefore, the LEC has no significant incentive -- and may even have a disincentive -- to take steps to prevent fraudulent interstate and international calls. The LEC's disincentive to prevent fraud is

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[3] See, e.g., AT&T's Memorandum in Opposition to IMR Motion to Amend Answer to Include Counterclaim submitted in connection with AT&T v. IMR Capital Corporation, Docket No. 90-128666-WD (D. Mass.), attached to APCC's Comments submitted in File No. 93-TOLL FRAUD-02 (June 4, 1993). In its Memorandum, AT&T noted that it does not bill New England Telephone for payphone service because NET's payphones "are part of NET's regulated services, thus AT&T's customer is not NET, but, rather, AT&T's customer is the person placing the call. Thus, AT&T provides no tariff service to NET and therefore renders no bill to NET." Id. at 8, 17-18.

particularly strong when the fraud occurs at the payphones of its competitor, the IPP provider.

The IXCs also lack a sufficiently strong incentive to prevent fraud. Because they have been allowed to adopt tariff provisions that purport to shift all fraud liability to the "customer," IXCs have been able to collect on a substantial percentage of fraudulent calls. These are predominantly international calls, for which the revenue collected is generally far in excess of marginal costs, including access costs. Thus, the IXC may actually earn an overall profit on toll fraud, even taking into account the percentage of calls that are "uncollectible." In any event, IXCs do not lose enough money on toll fraud to give them the kind of incentive that is probably necessary if the toll fraud problem is to be fully and effectively solved.

With inadequate incentives for LECs and IXCs to prevent fraud, the burden of fraud prevention (and liability) has fallen disproportionately on the "customer," which, in the IPP context, usually means the IPP provider. APCC readily agrees that payphone providers have a role in preventing fraud. The current "system" for allocating responsibility for fraud places too much of the burden on IPP providers. This is not an economically efficient approach to preventing fraud because of the inherent waste involved in trying to stop fraud at every conceivable "entry point," and it is ineffective because payphone-based solutions are inherently flawed since they are so easily bypassed. The most efficient and

effective place for fraud prevention is in the networks, where protection can be centralized in a relatively small number of central office switches.[4]

Payphone providers' obligations must be clearly and precisely defined so that IPP providers will understand precisely what measures they must take to avoid liability. If payphone owners are uncertain as to their obligations regarding fraud prevention, each provider will be forced to spend endless amounts of money in an attempt to build maximum fraud protection into each individual payphone. And in any event, payphones will be vulnerable to fraud no matter how much "fraudproofing" is built into an individual payphone.

Payphone providers who follow Commission rules and take "reasonable steps" to prevent fraud should be relieved of any liability for fraud. Subscription to blocking and screening services should completely protect IPP providers from charges for calls these services are designed to prevent. For instance, charges to 0+ calls should not even appear on the bills of IPP providers who subscribe to OLS. The LEC should have the responsibility of removing these charges before the bills are sent to IPP providers. IPP providers should not have the added burden of having to screen each and every bill for 0+ calls once they have subscribed to OLS. The same should be true for BNS and IDDB:

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[4] The LECs provide fraud prevention services for their own payphones at the network level.

charges for calls that should not be processed should not appear on the IPP providers' bill.

APCC would endorse a Commission policy that IPP providers would be required to confirm the proper deployment of blocking and screening services after they are installed by the LEC and on an annual basis. Once the IPP providers confirms that the service is in place, however, the LEC must maintain the responsibility for ensuring that the services are used properly.

Although APCC acknowledges that there are safeguards that IPP providers can implement at their payphones, APCC believes that the ultimate responsibility for preventing toll fraud should rest on the carriers, not IPP providers. First, network safeguards provide a far greater level of prevention with far greater efficiency. Second, toll fraud can only be eliminated if the responsibility is borne by those who have the most control over access to the network. After all, the target of fraud has been (and remains) the network, not the payphone or the customer, and the carriers have the responsibility for safeguarding the network. Therefore, carriers who own and operate the network should have primary responsibility for preventing fraud and bearing losses resulting from fraud.

History has already shown that when carriers are given responsibility for the cost of fraudulent calls, they act immediately to prevent the activity. For instance, once calling card issuers were made liable for fraudulent charges to credit

cards, the carriers took steps to control calling card fraud. See North American Telecommunications Association, Remote Access Toll Fraud: Detection and Protection 7-8 (1992). Carriers began to monitor calling card calls more carefully for unusual patterns, including atypical calls to high-risk area codes (e.g., 809 for the Caribbean). Now, when a carrier suspects fraudulent calls are being made, the carrier contacts the cardholder directly. If, in fact, the calls are unauthorized, the carrier invalidates the card and takes the authorization number out of the system. If the Commission limits the carriers' ability to shift responsibility for fraudulent calls billed to payphones, the carriers will necessarily increase their vigilance over unauthorized access to the network from payphones.

III. THE *UNITED ARTISTS* RULING SHOULD BE EXPANDED TO DEFINE CLEARLY THE LIMITS OF IPP PROVIDERS' LIABILITY FOR TOLL FRAUD.

United Artists, supra, is an important step toward the development of fair and unambiguous rules limiting payphone providers' liability for fraudulent calls.[5] In United Artists, the Commission recognized for the first time that, under some circumstances, IXCs cannot hold payphone owners liable for unauthorized calls made at their payphones. Although the IXCs'

[5] In its NPRM, the Commission appears to endorse the United Artists ruling. APCC supports the United Artists decision, but submits that by law the tariff of AT&T or any other interexchange carrier could bind only customers to its terms. In fact, it would be illegal for a tariff to bind non-customers to its terms.

tariffs attempt to hold IPP providers strictly liable for all calls made from their payphones -- whether authorized or fraudulent -- the Commission recognized that liability should take fault into account. The Commission recognized that if the payphone provider -- at least one who is not presubscribed to an IXC -- has taken "reasonable steps" to prevent fraudulent calls from reaching an IXC, the payphone provider should not be held liable for fraudulent calls carried by that IXC. The Commission's payphone fraud policy should affirm and build upon this holding of the United Artists decision.

The United Artists decision, however, did not address the fundamental problem with the existing IXC tariffs: unilateral imposition of strict liability on "customers" of the IXC. Under United Artists, if a payphone is presubscribed to a carrier, the payphone provider is automatically a "customer" of that IXC. And according to IXC tariffs, "customers" are held liable for all charges that result from all telephone calls made from their payphones -- whether the calls are authorized or fraudulent -- even if the payphone provider took reasonable steps to prevent fraud.

Many payphones are presubscribed to a carrier only because the LEC requires the payphone provider to presubscribe. "NO-PIC", an option that allows an IPP provider to avoid presubscription to any carrier, is only available in a relatively few states. As a result, in many states IPP providers are required to be a "customer" of an IXC. Thus, if an IPP provider operates in a

jurisdiction that requires presubscription, the IXC's tariff provisions will hold an IPP provider responsible for whatever fraudulent charges are billed to its payphone, regardless of how many steps the IPP provider has taken to prevent such fraudulent calls from being made or charged to its payphone. It is against public policy for the Commission to allow an IXC to hold a payphone provider liable for fraud if the provider takes reasonable steps to prevent unauthorized charges.

A. The Commission Should Eliminate the Disparity in Liability Between IPP Providers and the LECs.

Unlike IPP providers, the LECs escape responsibility for fraudulent toll calls made from or charged to their own payphones, notwithstanding the language in the IXCs' tariffs holding all customers strictly liable for charges resulting from fraudulent calls. There is no reason that IPP providers should be treated any differently than the LECs.

If the LECs are able to avoid liability for fraudulent calls made from or charged to its payphones, notwithstanding the language of the tariff, then IPP providers similarly should be able to limit their liability to the IXC. It is against public policy to hinge liability on the definition of "customer," which applies in a discriminatory fashion to IPPs and LEC public payphones. The Commission should clearly define "reasonable steps" and should rule that payphone providers who take such steps will not be held responsible for fraudulent calls placed from or charged to their payphones, even if they are a "customer" of the IXC.

If the Commission does not extend United Artists in this manner, then it is absolutely critical for the Commission to require that NO-PIC be offered by the LECs on a nationwide basis. In that case, all payphone providers will at least have the option of not becoming "customers," who are subject to IXC-imposed tariff provisions that make "customers" liable for all charges to the payphone, whether or not the charges are a result of fraud. This is a second-best solution, however, because use of NO-PIC involves some additional cost and degradation of service (e.g., connection delays). The far better course is for the Commission to extend United Artists to protect "customers" as well as "non-customers" who take "reasonable steps." NO-PIC then should be required to be generally available as an option for payphone providers who face especially difficult fraud problems.

B. The Florida Rules Should Be Used as a Model for Assigning Liability For All Fraudulent Calls.

Adoption by the Commission of a policy modeled after the Florida Public Service Commission's rules would address the remaining issue in the federal toll fraud policy that was omitted by United Artists. Currently, IXCs still attempt to bill their "customers" for all fraudulent toll calls. Under the Florida approach, however, if the IPP provider takes reasonable steps to prevent toll fraud, the IXC cannot hold the payphone company liable for charges resulting from fraudulent calls, whether or not the IPP provider is a customer of an IXC.

1. The Florida Rules are an Effective, Efficient Approach to Payphone Fraud, but Should be Expanded in Scope.

In the Notice, the Commission states that it is considering adoption of the Florida approach, but asks how the rules have worked in practice, and whether they have been an effective, efficient way of dealing with payphone fraud. Notice, ¶ 31. The Florida PSC rules are an excellent model for applying the necessary incentives to control the problem of toll fraud. The Florida model, with appropriate modifications, can work reasonably well and efficiently to control toll fraud at payphones.

However, the Florida approach should be extended beyond its limited scope. As written, the Florida approach only insulates IPP providers from fraud resulting from the failure of screening services (OLS and BNS) that are designed to prevent the billing of operator-assisted calls to the payphone. The same principle that applies to OLS and BNS also should apply to relieve IPP providers from liability when they subscribe to international direct-dial blocking ("IDDB"). The Commission should extend the Florida rules to insulate payphone providers from charges for fraudulent international direct-dialed calls if the payphone provider subscribed to IDDB.

It is APCC's understanding that under the existing Florida rules, LECs are not required to do a pre-bill edit to eliminate from IPP providers' bills those calls that should have been prevented by screening services to which the IPP provider

subscribes. As a result, the onus remains on the IPP provider to affirmatively dispute calls that should never have been billed in the first place. This places a huge burden on the IPP provider. IPP providers generally receive paper bills from the LEC. Thus, they cannot easily or efficiently review the bills to determine whether the LEC has billed for calls that should have been blocked. Again, if an IPP provider subscribes to IDDB, international calls should not even appear on the payphone provider's bill. As part of its IDDB service, the LEC must take the responsibility of removing from the bills all charges for calls that should have been blocked.

2. Existing Fraud Prevention Services are Generally Available and are Effective When Properly Deployed by the LECs.

The FCC also seeks comment regarding the general availability of blocking and screening services, whether they are priced reasonably, what percentage of payphone providers are using these services where they are available, and whether they are effective in reducing the risk of fraud. Id.

OLS and BNS, which the Commission has required the LECs to make available wherever feasible, are generally available from virtually all LECs, as far as APCC is aware. However, these

services are currently tariffed at the state level and are often priced at levels far in excess of any reasonable measure of actual cost.[6] Nevertheless, because of their importance in preventing fraud, APCC believes that the vast majority of IPP providers subscribe to OLS and BNS. OLS and BNS are effective in preventing fraudulent operator-assisted calls from being billed to payphones, provided that they are properly implemented by LECs and IXCs.

International direct dial blocking ("IDDB") is also required to be offered by LECs to IPP providers wherever feasible. APCC believes that IDDB -- which a few years ago was hardly available at all -- is now generally available from the major LECs and even most of the smaller LECs. The Commission has required that IDDB be offered under federal tariff, and as a result, it is relatively reasonably priced by most of the larger LECs.[7] APCC has sought to educate its members about the availability of IDDB,[8] and we believe most APCC members subscribe to IDDB. However, not all IPP providers belong to APCC or state associations. Because many IPP

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[6]In CC Docket No. 91-35, the Commission is considering whether to require federal tariffing of OLS and BNS. 10XXX Further Reconsideration, 8 FCC Rcd at 2865-66. APCC urges the Commission to rule promptly on this matter and to require federal tariffing, as advocated in APCC's comments in that docket.

[7]Some smaller LECs, however, still charge outrageous rates for IDDB.

[8] In many instances, screening services are bundled with the "COCOT" service that LECs provide to IPP providers, so that the IPP provider does not always have to affirmatively order screening services. IDDB, however, is almost always offered separately, so that it must be affirmatively ordered by the IPP provider.

providers probably are still not aware of IDDB, the use of IDDB is not universal in the payphone industry.

Where utilized, IDDB is very effective in preventing fraudulent international direct-dialed calls because it ensures that these calls are blocked, even where the criminal has successfully bypassed the payphone's own programming. There is, however, one major loophole in IDDB: it does not prevent international direct-dial calls to countries that participate in the North American Numbering Plan ("NANP"). This leaves the network especially vulnerable to fraudulent direct-dialed calls terminating in Caribbean countries that utilize the "809" area code.[9]

APCC recommends that the Commission adopt a rule that subscription to BNS, OLS, and IDDB insulates an IPP provider from liability for those calls the services are designed to prevent. Even if IPP providers do not subscribe to central-office services, or if central-office services that prevent a particular type of fraud are not available, IPP providers should not be held liable if they take other "reasonable steps" to prevent fraud. There might include securing the network interface, blocking calls to high-risk areas, choosing the "NO-PIC" option, etc. The Commission should refer the issue of what other "reasonable steps" will

[9] The other foreign country which participates in the NANP is Canada. In APCC's experience, calls in Canada are lower priced and do not pose nearly as serious a fraud problem as calls to Caribbean countries.

protect IPP providers from charges for fraudulent calls to the advisory committee for action within six months. In the meantime, however, until the Commission clearly defines these other "reasonable steps," the carriers should absorb the costs of fraudulent calls unless they show that the IPP provider was negligent. And the Commission should clearly state that subscription to central office blocking and screening services automatically insulate the payphone providers from liability for the calls that the services should prevent.

3. The Commission Should Mandate that the Carriers Implement Additional Network-Based Safeguards.

The Commission asks whether there are additional services available to payphone providers that reduce the risk of fraud. Id. OLS, BNS, and IDDB are the only generally available services of which we are aware. However, there are additional services and safeguards that can and should be made available by LECs and IXCs.

First, as mentioned above, neither OLS, nor BNS, nor IDDB has any effect on fraud resulting from direct-dialed calls made to the 809 area code, which includes calls to the Caribbean. Because 809 area code calls are not currently blocked by international direct-dial blocking, they are another major source of payphone fraud. The Commission should broaden the scope of required IDDB to include the 809 area code.

Second, the LECs should be required to make universally available effective safeguards against "secondary dial tone" or