

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of)
)
Amendment of Policies and Rules)
Concerning Operator Services)
Providers and Call Aggregators)

CC Docket No. 94-158

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

REPLY COMMENTS

MCI Telecommunications Corporation (MCI) hereby replies to initial comments submitted in response to the Commission's "Notice of Proposed Rulemaking and Notice of Inquiry" (Notice) concerning proposed changes to its rules governing operator services providers (OSPs) and call aggregators. As discussed below, there is as yet no record support for the proposed "double-branding" requirement for collect calls. In addition, the record overwhelmingly supports the exclusion of correctional facilities from the definition of "aggregator" in connection with their provision of inmate-only telephones, which is the Commission's current approach on the question.

In its Notice, the Commission is proposing to modify the definition of "consumer," such that both the originating and terminating party on a collect call are considered "consumers," entitling each to hear a carrier's brand.¹ Although the majority of commenters addressing this issue

¹ For each collect call, the carrier's "customer" -- the party who initiates the call and therefore is obliged to pay for it -- is the called party.

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appear to support the Commission's proposed rule, they offer no evidence that it is necessary to reasonably protect the public.² Thus, neither the Commission nor interested parties have demonstrated that there are consumer complaints or problems that justify a requirement that OSPs brand the calling party.³

² The alleged result of a customer survey submitted by AT&T with its comments is of no value. As an initial matter, the data are stale as they appear to have been gathered before July of 1993. Also, although the data purport to show call originators' perception of which long distance carrier offers 1-800-COLLECT, AT&T fails to establish that any of the respondents used the service. In addition, the respondents were questioned soon after the service was introduced when it could be anticipated that they were not fully aware of the service. In any event, there is no evidence that even these respondents had any complaints with the service; and, since the service has been effectively provided -- and universally accepted -- since its introduction, AT&T's "study" should be viewed for what it is -- a stale attempt by the competitor most affected by the service's success to discredit it, as witnessed by the massive advertising campaign taken against 1-800-COLLECT service.

³ The State of Georgia supports the rule, apparently, because it ensures that the called party is branded. Thus, it states that the billed party "is the real consumer" of a collect call. (Comments of the State of Georgia, Department of Administrative Services, Telecommunications Division at 1) As demonstrated by MCI, the plain meaning of the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA) requires that the called party to a collect call be branded, and the Commission should so find. The Commission's proposed rule, which imposes additional and unnecessary requirements on carriers, is not needed to achieve this result. Accordingly, it should not be adopted.

The American Public Communications Council (APCC) argues that under the current rule the calling party to a collect call is the "consumer." The silliness of this view is best highlighted by APCC's request that the Commission modify the branding rule to require dual branding rather than change the definition of "consumer." According to APCC, certain automated OSPs do not and should not be

The Commission's proposed rule also would impose costs on carriers and could have additional adverse effects on both carriers and customers, such as affecting the well-established carrier-customer relationship between the OSP and the called party. On a collect call, as noted above, the called party is MCI's "customer" under its tariff and, accordingly, the called party has certain rights and obligations, including the duty to pay for the call. The Commission's proposed definition of consumer would confuse the issue of which party is responsible for paying for the call.⁴

If adopted, the proposed rule also would lead to an increase in call set-up times and, therefore, carrier access charge costs would rise. As indicated by MCI, the incremental cost involved would be \$0.0038 for each collect call. This, however, is only the "tip of the iceberg" because the Commission's proposal also would require OSPs to provide information concerning the charges for the call,

required to provide the other information required by the TOCSIA, including rate information, to the called party. Thus, under APCC's request, the party paying for the call would not have the right to receive information concerning charges for the call. Clearly, this result cannot be reconciled with the statute and, therefore, the Commission must deny this request.

⁴ In its comments, Ameritech urges the Commission to reaffirm that its proposed rule would not affect the called party's responsibility for the charges associated with a collect call. Ameritech Comments at 3. The best way to achieve this, MCI submits, would be to retain the status quo and not modify the rule in the manner proposed.

collection methods, and complaint resolution procedures, on request, to both the calling and called parties. Where such information is requested, the call set-up time and incremental increase in carrier access charge costs⁵ would be significantly greater.

A number of carrier commenters state that the proposed rule would not increase their costs because they already provide a brand to both the calling and called party. To the extent this is true, it is because these carriers cannot determine that a call will be collect until the calling party so indicates, which is after the brand has been given. In other words, these carriers brand to the calling party because of the nature of the services they provide.

MCI is in the same position for calls that reach a general operator number and, accordingly, it also brands the calling party on these calls. MCI, however, has developed a more efficient way of providing collect call service by dedicating an access number, 1-800-COLLECT, to that service. Thus, MCI knows that every call to 1-800-COLLECT is a collect call and that the called party will be MCI's customer. And, perhaps most important, the efficiencies inherent in provisioning service in this manner can best be

⁵ It's no surprise that the local exchange carriers do not object to a rule that would needlessly require their future competitors to pay them even more money for unbillable access time. Perhaps the LECs can use this windfall to launch their own interstate operator services in the future.

seen in the low rates.

The Commission's proposed rule, in effect, would require all carriers to follow a procedure that was developed due to limitations in the provisioning of operator services. As a result, the development of competitive alternatives like 1-800-COLLECT and other distinctive access number collect call services could be inhibited and the consumer benefits of an innovative, low-cost operator services alternative could be lost. Particularly since there is no demonstrated consumer protection need for the additional branding requirement, the potential harm, on balance, outweighs any benefit and, therefore, the Commission should not adopt the proposed rule.

Moreover, 1-800-COLLECT and other distinctive access services are different from "0" dialed operator services. In the case of dialing "0," neither the calling party nor the called party knows the identity of the carrier before the call because "0" is not associated with a specific carrier or product-- it is a generic telecommunications access method which can be used to access many different providers with different rates and service levels. The caller selects a telephone from which to place a call-- typically based on need and convenience-- and the location owner determines the carrier of a particular "0" dialed call.

With 1-800-COLLECT, where a distinct, separate

dedicated access number is provided, callers are making a very conscious selection each time they make a call. In fact, they literally spell out the selection and millions of callers have done so since the service was introduced two years ago. In addition, only one service provider is involved in each and every case - making pricing and service levels consistent across every telephone in America. Thus, every time 1-800-COLLECT is dialed the selection is clear.

The question for the Commission should be whether consumers know what they are getting. The Commission's rules should regulate telecommunications practices and insure consumer protection -- not regulate marketing practices and interfere with competitive battles.

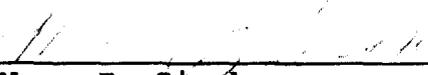
Finally, with respect to the provision of telephone services to inmates, the comments overwhelmingly demonstrate that the "exceptional circumstances" which warranted the exclusion of inmate-only telephones from the TOCSIA requirements continue to exist. Therefore, the Commission should not modify its decision in this respect.

Based on the foregoing, MCI urges the Commission to adopt the recommendations contained herein and in its comments.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By:

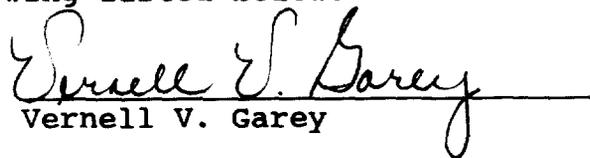


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Dated: March 24, 1995

CERTIFICATE OF SERVICE

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