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Before the
Federal Communications Commission
Washington, D.C. 20554

Billed Party Preference For InterLATA 0+ Calls	CC Docket No. 92-77
Petition of the National Association of Attorneys General Telecommunications Subcommittee for Rules to Require Additional Disclosures by Operator Service Providers of Public Phones	RM-8606

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REPLY COMMENTS OF THE INDUSTRY COALITION ON ITS PROPOSAL FOR RATE CEILINGS

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(additional listings on page 18)

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NYNEX Telephone Companies
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Dated: April 27, 1995

No. of Copies rec'd 0+4
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SUMMARY

The objections to the Coalition's Rate Ceiling plan -- mostly claiming that rate ceilings are inherently ineffective or that the specific proposed rate ceiling levels are inappropriate -- are without merit.

The FCC has found rate ceilings to be a highly effective regulatory tool, and has strongly embraced them in other rate regulation contexts. Adopting rate ceilings for operator services would be an intelligent and practical way for the FCC to conserve regulatory resources and to provide guidance on what tariff filings are likely to be suspended.

Some criticize the Coalition's plan because it is narrowly targeted at reducing excessive rates, and does not attempt to restructure the entire operator service industry, as BPP would. This is a virtue, not a defect. The industry structure does not need to be overhauled in order to address the identified problem -- apparently excessive rates which are limited to a small and discrete segment of the operator services market. The FCC should discard the expensive and unworkable BPP plan and should adopt the Coalition's rate ceilings plan.

The criticism that benchmark rate ceilings are "porous" misses the point. Rate ceilings allow the Commission promptly to <u>begin</u> measures to bring down excessive rates. The Commission can and should adopt various mechanisms to encourage pricing below the benchmarks, including suspension of above-benchmark tariff filings, imposition of accounting orders, and LEC monitoring of billed

charges. Any rate prescription proceedings that might be required can be conducted with simplified cost categories, but past experience indicates that most, if not all, carriers are likely to voluntarily bring their existing rates down below Commission benchmarks.

The adoption of benchmark rate ceilings will not lead OSPs with below-benchmark rates to increase their rates to the ceilings. With or without benchmarks, potent competitive forces -- access codes, 800 services, cellular service, etc. -- will continue to exert market pressure on operator service rates.

Contrary to some parties' contentions, the FCC has ample statutory authority, in TOCSIA and elsewhere in Title II, to adopt the Coalition's plan. The LEC monitoring requirements will be effective and will not unduly burden LECs.

Finally, the proposed rate ceiling levels are appropriate to their purpose -- to identify rates that are most likely to be found unreasonable. The factors underlying the proposed rate ceilings are the most readily available objective criteria, and provide a sufficient basis for the Commission to immediately begin attacking excessive operator service rates. Keeping the categories simple eases the administrative burden for all.

The proposed rate ceilings are appropriately <u>not</u> based on the rates of the dominant carrier (or the three largest carriers). Since carriers have varying cost structures, dominant-carrier based rate ceilings would be unreasonable, and in any event would create an administrative nightmare for both OSPs and the Commission.

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To: The Commission

REPLY COMMENTS OF THE INDUSTRY COALITION ON ITS PROPOSAL FOR RATE CEILINGS

As an alternative to the enormously expensive and seriously flawed Billed Party Preference ("BPP") proposal, the undersigned parties[1] (the "Coalition") have proposed a rate ceiling plan to address the lingering problem of excessive charges imposed by some operator service providers ("OSPs"). See Rate Ceiling Alternative to Billed Party Preference, filed on March 8, 1995.

Numerous parties, in addition to the eight signatories, support the Coalition's rate ceilings plan. See, e.g., Comments of Frontier Communications International; the Intellicall Companies at 8 (supporting a "uniformly applied" rate cap); Teltrust, Inc.; U.S. Long Distance, Inc. Cf. United States Telephone Association ("USTA") at 2 (rate ceiling "may well be useful"). Criticisms of

[1] Teleport Communications Group also signed the Coalition's rate ceiling proposal, but does not join in these reply comments.

the rate ceilings plan appear to fall into two main categories: (1) claims that rate ceilings are inherently ineffective or insufficient; and (2) claims that the specific rate ceilings proposed by the Coalition are too high (or too low). The comments below address those criticisms.

I. RATE CEILINGS WILL BE EFFECTIVE AND WORKABLE

A. Rate Ceilings Are Consistent with FCC Practice

Contrary to the implication of some commenting parties, rate ceilings are a familiar and useful regulatory tool, and have been strongly embraced by the FCC in other rate regulation contexts. Regulatory commissions have frequently used various forms of benchmark regulation to conserve resources and to provide advance guidance to carriers. See, e.g., Trans Alaska Pipeline Rate Cases, 436 U.S. 631 (1978); Consolidated Edison Co. of New York, Inc. v. FPC, 512 F.2d 1332 (D.C. 1975); Advanced Micro Devices v. CAB, 742 F.2d 1520 (D.C. Cir. 1984); Direct Marketing Ass'n, Inc. v. FCC, 772 F.2d 966 (D.C. Cir. 1985). Under the Communications Act of 1934, the Commission is charged with ensuring that rates are just, reasonable and non-discriminatory. The "courts have consistently found in the Act a congressional intent to grant [the] Commission broad discretion in selecting regulatory tools." Policy and Rules Concerning Rates for Dominant Carriers, Further Notice of Proposed Rulemaking, 3 FCC Rcd 3195, 3296-97 (1988). The Commission's "broad discretion" specifically includes "'selecting methods . . . to make and oversee rates . . .'" MCI Telecommunications v. FCC, 675 F.2d 408, 413 (D.C. Cir. 1982)(quoting Aeronautical Radio v. FCC, 642 F.2d 1221, 1228 (D.C. Cir. 1980), cert. denied, 451 U.S. 920 (1981)).

The proposed benchmark plan will help the Commission implement its statutory mandate to ensure that operator service rates are just and reasonable. In this era of limited agency resources, adopting such benchmark rates would be an intelligent and practical way for the FCC to use its regulatory powers to address excessive rates. Trans Alaska Pipeline Rate Cases, 436 U.S. at 653 (1978). The coalition's proposal is an efficient method for the Commission to provide guidance on what operator service tariff filings are likely to be suspended. Such a plan:

> only affects the procedural treatment of various carrier-initiated tariff filings, i.e., whether they are presumptively suspended or not, and does not determine whether particular rates are just, reasonable, and non-discriminatory. . . . [T]hese rules reflect "an intelligent and practical exercise of [our] suspension power which is thoroughly in accord with Congress' goal . . . to strike a fair balance between the needs of the public and the needs of regulated carriers."

Policy and Rules Concerning Rates for Dominant Carriers, 4 FCC Rcd 2873, 3306-07 (1989) ("Price Cap Order"), quoting Trans Alaska Pipeline Rate Cases, 436 U.S. at 653.

B. The Coalition's Plan Is Appropriately Targeted at Eliminating the Most Excessive Rates

Several commenters criticized the Coalition's plan because it does not address what these parties contend are underlying, "root cause" problems in the OSP market. MCI at 5; MessagePhone at 5; Southwestern Bell ("SWB") at 9-11; Sprint at 11-12. Although the

Coalition's plan does not attempt to restructure the entire operator service industry, as BPP would, the Coalition believes that this is a virtue, not a defect. The record in these proceedings shows that BPP is an enormously costly, intrusive, unworkable and counter-productive "solution" to the problems it attempts to address. Benchmark rate ceilings, by contrast, are narrowly targeted to the identified problem -- that a discrete group of carriers are charging rates that appear excessive. The entire structure of the operator services market does not need to be totally overhauled in order to eliminate excessive rates affecting a small percentage of calls.

The record is quite clear that excessive rates do not pervade the entire operator service industry. As the Commission's TOCSIA Report made explicit, on the vast majority of operator-assisted calls, consumers are not experiencing the rate levels which give rise to complaints. See Final Report of the Federal Communications Commission Pursuant to the Telephone Operator Consumer Services Improvement Act of 1990 at 31 ("TOCSIA Report") (more than 90 percent of all operator service calls are carried by carriers whose rates fall in the low range). Thus, even in the current environment, without any FCC-adopted rate limits, exorbitant rates are limited to a small and discrete segment of the market.

Some parties object to benchmark rate ceilings on the ground that regulations in this area cannot be enforced. MCI at 6; Sprint at 3-4; SWB at 4. If this objection had merit, it would be even more applicable to BPP, because BPP is a far more extensive and intrusive scheme of regulation that presumes compliance by every one of thousands of aggregators. The enforcement burden associated with benchmark rate ceilings, by contrast, is quite manageable because (as determined by the Commission in its TOCSIA report), the need for enforcement affects only a small percentage of operator services traffic.

The comments of the Florida Public Service Commission ("FPSC") are instructive in this regard. In its earlier-filed reply comments, resubmitted in response to the Coalition's rate ceilings plan, the Florida Public Service Commission points out that, although it has imposed "hard" rate caps on intrastate operator assisted calls, some OSPs continue to charge above-cap rates. FPSC at 2-4. According to its comments, FPSC has identified overcharges totalling approximately $2 million in eleven docketed proceedings with other investigations pending. However, a closer look at the facts provided by FPSC, and referenced by MCI in its comments (MCI at 3), reveals that $1.7 million of those overcharges came from calls originating from inmate facilities. Astonishingly, $1.4 million of that total was connected to two companies. FPSC at 3. These two companies not only were exceeding the rate caps but also were exceeding the rates established by their own contracts. Those two companies' contracts have been terminated by the Florida Department of Corrections. Thus, FPSC's comments support the coalition's rate ceiling proposal. They show that (1) most overcharging is limited to a small number of OSPs, and (2) the

As the Florida example clearly demonstrates, the problem of excessive rates does not warrant a complete overhaul of the operator service industry. Moreover, the proposed overhaul plan, BPP, has been shown in the record to be excessively expensive and unworkable. It is a public policy disaster waiting to happen. Even some past "supporters" of BPP, such as the Pacific Companies, now endorse the concept of a rate ceiling approach as an acceptable and less costly alternative to BPP. Pacific at 4-5. Therefore, rather than erecting a Maginot Line-type plan that would impose billions of dollars of costs (which would be passed on to consumers), would take years to implement, would likely be obsolete by the time it is finished, and would provide, at most, marginal public interest benefits, the Commission should discard the BPP proposal and adopt the Coalition's benchmark plan.

C. Benchmark Rate Ceilings are Effective

Several commenters argued that benchmark rate ceilings are inherently ineffective because they are "porous," i.e., because carriers could still maintain rates above the benchmark levels. MCI at 4, Sprint at 7-8. These parties miss the point. As the Commission noted in the Price Cap Order, benchmark rate ceilings are not necessarily the final step, but an important first step, in the rate regulation process. Price Cap Order, 4 FCC Rcd at 3306-07. Benchmark rate ceilings allow the Commission promptly to begin measures to bring down excessive operator service rates.

First, benchmarks can be implemented quickly, without first completing rate prescription proceedings, whether individual or industry-wide.[2] Second, the benchmark plan also has the virtue of signaling to operator service providers ("OSPs") the levels at which operator service rates raise such serious questions that they are likely to trigger regulatory intervention. Third, benchmark rates allow the Commission to focus its resources on those OSPs with the most egregious pricing practices. In short, the benchmark plan would address the problem of rate "gouging" efficiently, effectively, and quickly.

Further, there are built-in incentives for OSPs to price their services below the benchmarks. OSPs who file rates above the benchmark would be subject to a longer tariff notice period, be required to submit cost justification for their rates, and be subject to suspension and accounting orders. The burden would be on the OSP to demonstrate that the rate is just and reasonable. 47 U.S.C. § 204. The prospect of having rates suspended or subject to a consumer refund will be a significant deterrent against filing above-benchmark rates.

For those OSPs who have existing rates above the benchmarks, the proposed local exchange carrier ("LEC") monitoring system, discussed below, would ensure that such rates do not go undetected.

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[2] There is no merit to the argument advanced by some commenters that the benchmarks would be considered rate prescriptions, above which no OSP could charge. Capital Network System at 3-4; Opticom at 9-11. Setting the benchmark rates does not represent a final determination by the Commission as to the reasonableness of any rate, whether above or below the benchmarks. Price Cap Order, 4 FCC Rcd 2873, 3301-3307 (1989).

Thus, the Commission would be able promptly to initiate investigations of existing above-benchmark rates, and could invoke additional powers, such as the consumer message requirement applied during the 1991 TOCSIA proceedings, to encourage carriers to reduce existing above-benchmark rates.

Past experience indicates that most, if not all, carriers are likely to voluntarily bring their existing rates into line with the benchmark rates. For example, in 1991, the Commission began TOCSIA investigations of a selected group of some two dozen OSPs whose maximum rates were substantially higher than the industry average maximum rate for an 8-minute call. The Commission initiated rate proceedings against each carrier and requested each carrier to submit cost justifications for its rates. Ultimately, no rate hearings were held because virtually every carrier reduced its tariffed rates below the informal benchmark ($6.58 for an 8-minute operator-assisted call) suggested by the Commission staff.

Any follow-up rate proceedings that might be required could be conducted with simplified cost categories as proposed by the Coalition. In their comments, some parties implied that the benchmark rates would be ineffective because OSPs would be able to prove that their rates are cost-justified no matter what they charge. MCI at 4; Oncor at 8. This view of "just and reasonable" determinations is wrong. The Commission has great latitude to select an appropriate methodology for determining the reasonableness of rates. Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 600-01 (1944); Accord Duquesne Light Co. v.

Barasch, 488 U.S. 299 (1989); Price Cap Order, 4 FCC Rcd 2873, 3295-96. Further, no one can dispute the Commission's power to disallow excessive or unreasonable costs. For example, excessive commission payments may be disallowed.[3]

D. Benchmark Rate Ceilings Would Not Become Rate "Floors"

Another concern expressed with respect to the benchmark plan is that a benchmark rate "ceiling" would become a "floor" for rates. MCI at 4; National Association of Attorneys General ("NAAG") at 6; U.S. Osiris Corp. at 9. Under this view, by setting the benchmark rates, the Commission would be encouraging OSPs with below-benchmark rates to bring their rates up to the benchmarks. This concern is not warranted. First, with or without benchmark rates in place, potent competitive forces pressure OSPs to maintain lower rates for most operator service calls. Dial-around already accounts for the majority of public phone calling today. Consumers have and use numerous other alternatives to a public telephone's

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[3] See e.g., Open Network Architecture Tariffs of Bell Operating Companies, Order, 9 FCC Rcd 440, 455-58 (1993) (tariff rates based on embedded costs not impacted by new service and on "excessive direct costs and overheads" are unreasonable; carriers ordered to recalculate rates); cf. National Telephone Services, Memorandum Opinion and Order, 8 FCC Rcd 654, 656 n.12 (Com. Car. Bur. 1993) (petition for declaratory ruling denied where no allegation that AT&T commission payments were "excessive or otherwise unreasonable"). In fact, in its comments, Oncor proposes that the Commission limit the amount of commission payments an aggregator may receive. Oncor at 9-10. This suggestion is consistent with the coalition's view that excessive costs should not be permitted as justification for above-benchmark rates. However, rather than attempting to directly regulate such payments, as Oncor appears to propose, the better approach would be for the Commission to disallow such expenses above a certain level to the extent they are used to cost-justify above-benchmark rates.

pre-subscribed OSP, including debit cards, "personal" 800 services, cellular telephones and pagers. PCS and other alternatives are on the horizon.[4] The imposition of a benchmark rate ceiling will not alter these competitive market forces, which will continue to exert pressure on OSPs to keep rates at competitive levels.

Second, by establishing these benchmark rates, the FCC is not making a final determination as to what rates are "just and reasonable." Price Cap Order, 4 FCC Rcd 2873, 3305-07 (1989). The Commission is simply identifying rates that are likely to be suspended pursuant to its Section 204 powers. 47 U.S.C. § 204; Trans Alaska, 436 U.S. at 653. Nothing in this benchmark plan would preclude the FCC from investigating any rates below the benchmark, in response to a complaint or on its own motion. See, e.g., Advanced Micro Devices v. CAB, 742 F.2d 1520 (D.C. Cir. 1984).

E. FCC has Authority to Implement the Coalition's Rate Ceilings Proposal

Contrary to the claim of Capital Network System (at 2-3), the Commission's current classification of most OSPs as "non-dominant" does not prevent the establishment of a benchmark rate regime. In enacting the Telephone Operator Consumer Services Improvement Act of 1990 ("TOCSIA"), 47 U.S.C. § 226, Congress recognized that there

[4] See, e.g., Comments filed in CC Docket No. 92-77 on August 1, 1994 by the following parties: APCC at 22-23; Bell Atlantic at 10; NYNEX at 4, 7-8; Polar Communications; Southern New England Telephone Co. ("SNET") at 4; Teleport Communications Group at 3-6; Teltrust at 11; U.S. Osiris. See also Reply Comments filed in CC Docket No. 92-77 on September 14, 1994 by APCC at 14.

had been numerous complaints about OSP rates, and specifically empowered the FCC to regulate OSP rates, where necessary. 47 U.S.C. § 226(h). This mandate was not limited to OSPs classified as "dominant" carriers.

Other commenters argue that TOCSIA provides the only Communications Act authority for regulating OSPs, and that Congressional action is necessary before imposing any requirements not specifically mandated by TOCSIA. Oncor at 4. This view is wrong. In addition to its specific requirements, TOCSIA authorized the FCC to prescribe regulations containing "such other provisions as the Commission determines necessary to carry out [Section 226] and the purposes and policies of [Section 226]." 47 U.S.C. § 226(d)(2)(B).

Further, TOCSIA expressly did not displace the FCC's existing Title II authority to "prescribe such rules and regulations as may be necessary in the public interest" to ensure that rates are just and reasonable. 47 U.S.C. §§ 201(b), 226(i).

In addition to TOCSIA, and contrary to the argument of U.S. Osiris at 11-12, the FCC also has the power under its Title II authority to implement this benchmark plan. See 47 U.S.C. §§ 201, 203-05. In the Further Notice of Proposed Rulemaking in CC Docket No. 92-77, the Commission stated that it continued to receive a high volume of consumer complaints with respect to operator service charges. As the analysis in APCC's comments shows, these complaints are focused overwhelmingly on high charges assessed by some OSPs on a small segment of overall operator services traffic.

The volume of complaints about these operator service rates supports the adoption of narrowly targeted Title II regulations (in addition to those expressly required by TOCSIA) that go beyond the rules applicable to other services of non-dominant carriers.

In summary, it is clear that the Commission has statutory authority to implement the Coalition's rate ceilings proposal.

F. LEC Monitoring Requirements Are an Efficient And Effective Means to Monitor Adherence to Benchmarks

The benchmark plan would require the LECs to report to the Commission those OSPs charging above-benchmark rates. The Coalition believes that this is an efficient and effective means to monitor OSP rates. Some commenters argued that this provision would not be very effective because many OSPs would simply avoid this monitoring by contracting with other billing service companies. MessagePhone at 5; Sprint at 8, n.8. This concern is illusory. While OSPs could theoretically bill through other methods, LEC billing has been preferred because consumers are more likely to pay charges when they appear on the telephone bill that is familiar to consumers and that is routinely received every month. Charges that are separately billed by the OSP, by contrast, are more likely to be ignored or challenged by the consumer. Moreover, stand-alone billing is likely to be more expensive for OSPs that lack a large base of subscribers. Thus, even under the benchmark plan, most OSPs would still prefer to bill through the LEC.

Southwestern Bell objects that the reporting requirement would be burdensome and inappropriate for LECs. SWB at 6. This too is an illusory concern. Five of the seven Regional Bell Operating Companies ("RBOCs") (the four RBOCs that signed the coalition proposal and the Pacific Companies) support LEC monitoring requirements. Of the seven RBOCs, only Southwestern Bell contends that such requirements would be unduly burdensome. Moreover, as USTA recognizes, the proposed requirements are certainly far less costly than the burden that would be imposed on LECs by BPP. USTA at 2-3.

II. THE COALITION'S PROPOSED BENCHMARK RATES ARE REASONABLE

The other main area of criticism about the proposed rate ceilings plan concerns the levels proposed. Some parties contend that the proposed benchmark rates are excessively high. Ameritech at 2; Colorado PUC staff at 12-13; NAAG at 5-6; Sprint at 7-8. This criticism must be answered by recognizing the purpose of benchmark rates. These benchmark rates do not represent a final determination of what is "just and reasonable" under section 205. Price Cap Order, 4 FCC Rcd 2873, 3305-07 (1978). Rather, they are a means to quickly identify rates that are most likely to be unreasonable. They allow the Commission to target its regulatory resources in a cost-effective manner. This is a reasonable exercise of the Commission's "broad discretion" to "select[] methods . . . to make and oversee rates." MCI Telecommunications v. FCC, 675 F.2d 408, 413 (D.C. Cir. 1982) quoting Aeronautical

Radio v. FCC, 642 F.2d 1221, 1228 (D.C. Cir. 1980), cert. denied, 451 U.S. 920 (1981); See also Price Cap Order, 4 FCC Rcd 2873, 3296, 3305-07 (1989).

The proposed benchmark rates are based on three factors. First, these rates are consistent with the informal rates used by the Commission in the previously mentioned 1991 TOCSIA investigation. In those proceedings, the Commission staff cited a rate of $6.58 for an 8 minute call and indicated that any OSP reducing its rates to that level would not face any further immediate action with respect to the investigation under way. Second, CompTel's informal survey of its members indicated a consensus that the proposed benchmark rates would allow OSPs to receive a reasonable return for such services. CompTel at 8. Finally, based on a review of more than 100 consumer complaints filed at the FCC, enforcement of the proposed benchmarks would eliminate virtually all the rates complained of by consumers. APCC at 10-11, Attachment 1.

Short of conducting an actual rate prescription proceeding for the entire operator services industry, these were the most readily available objective criteria to use in establishing the benchmark rates. While some "fine tuning" adjustments may be made, the factors underlying the Coalition's proposed benchmarks establish the most appropriate basis upon which to proceed. It may be that follow-up rate prescription proceedings will establish guidelines that allow a more precise determination of benchmark rates. However, the proposed benchmarks provide a sufficient basis for the

Commission to begin immediately its attack on excessive operator service rates.

Some parties contend that the proposed benchmark rates are not detailed enough, and urge the Commission to complicate its inquiry with multiple categories of benchmark rates. Ameritech at 2; Pacific at 2; Colorado PUC Staff at 12. The Coalition believes this would be a mistake. The benchmark scheme should be simple in order to minimize the monitoring burden on both the FCC and the LECs.

Some parties, such as MCI and Sprint, object to "sanctioning" any rate higher than the rates of AT&T, MCI, or Sprint. MCI at 4; Sprint at 7. These self-serving positions are contrary to the public interest. MCI and Sprint are competitors to the smaller OSPs, and they would benefit greatly from regulation that drives their competitors out of business.

Tying benchmarks rigidly to the largest carriers' rates disregards the fact that many smaller OSPs have different cost structures for their operator services. It is clearly unreasonable to assume that a single carrier's rates, which reflect that carrier's individual cost structure, are the maximum "just and reasonable" rates.

In any event, rate ceilings based on the rates of a dominant carrier (or the three largest carriers) would not be workable. First, it would be an administrative nightmare for carriers to keep track of dominant carrier rate changes. Second, dominant-carrier rate ceilings would be an administrative nightmare for the FCC.

Many OSPs would be prevented from earning a reasonable rate of return. Those OSPs would have no choice but to undergo a rate prescription hearing, increasing exponentially the FCC's administrative burden.

Sprint's suggestion to use a "bellwether" approach is inapplicable here because the Commission has not yet prescribed a "just and reasonable" rate for any carrier. A bellwether rate regulation approach means that the Commission completes a rate investigation of one carrier and prescribes rates for other carriers based on the rate prescribed for the first carrier. Since no rates have yet been prescribed for any carrier, Sprint's suggestion is, at best, premature.

Sprint's reference to the Commission's ITT World Communications, Inc. ("ITTWC") decisions, ironically, provides strong support for the Coalition's proposal. In the ITTWC proceeding, Commission staff had conducted an audit of international record carriers ("IRCs") and had determined that IRCs were receiving excessive rates of return. The commission decided to address the industry problem by focusing first on the most egregious over-earner, ITT. The Commission believed that it would most efficiently and effectively address the general problem in the industry. Although the Commission did initially reference the "bellwether" concept, it expressly stated that it was not relying on that concept. ITT World Communications, Inc., 85 FCC 2d 561, 567 (1981). Rather, it "decided to examine the rate of return of ITTWC rather than that of each IRC because ITTWC has earned the highest rate of return overall . . . ." ITT World Communications, Inc., 82 FCC 2d 282, 285 (1980). The Commission also reserved the right to initiate further proceedings against other IRCs if warranted. Id. This approach is closely analogous to the approach advocated by the Coalition. As in the ITTWC proceedings, the Commission should first target the most egregious examples of excessive OSP rates. The proposed benchmark rates would effectively accomplish this goal while avoiding unnecessary expenditure of resources on regulation of rates that have not provoked a significant volume of consumer complaints.

CONCLUSION

For the foregoing reasons, the Commission should adopt the Coalition's proposed benchmark plan and should, once and for all, reject BPP.

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Dated: April 27, 1995