

## **PER-CALL COMPENSATION**

- **AS THE COMMISSION NOTED, FLAT RATE IS NOT OPTIMAL.**

**PER-CALL COMPENSATION OFFERS "GREATER INCENTIVES FOR PPOS TO PLACE THEIR PAYPHONES IN LOCATIONS THAT GENERATE THE MOST INTERSTATE TRAFFIC." SECOND REPORT AND ORDER, 7 FCC RCD AT 3252-53.**

- **FLAT RATE ALSO DOES NOT KEEP PACE WITH INCREASES IN DIAL-AROUND TRAFFIC. WITH 1-800-COLLECT, 1-800-OPERATOR, DEBIT CARDS, AND OTHER NEW FORMS OF DIAL-AROUND, \$6 PER MONTH IS NO LONGER ENOUGH.**
- **FCC DIRECTED STAFF TO MONITOR INDUSTRY PROGRESS TOWARD PER-CALL SYSTEM**
- **JULY 19, 1994: APCC REQUESTED RULEMAKING APPLYING PER-CALL COMPENSATION TO ALL MAJOR IXCs, WITH IXC TRACKING OF 10XXX AND 1-800, SURROGATES FOR 950**
- **DECEMBER 29, 1994: BUREAU GRANTS AT&T WAIVER TO PAY PER-CALL COMPENSATION AS OF JANUARY 1, 1995 -- 25¢ PER INTERSTATE ACCESS CODE CALL**
- **MAY 19, 1995: BUREAU GRANTS SPRINT WAIVER TO PAY PER-CALL COMPENSATION AS OF JULY 1, 1995 -- 25¢ PER INTERSTATE ACCESS CODE CALL**
- **OTHER LARGE IXCs ARE STILL OBLIGATED TO PAY FLAT-RATE COMPENSATION PENDING FURTHER ACTION BY THE FCC**
- **ON SEPTEMBER 8, 1995, THE COMMISSION PROPOSED TO REQUIRE IXCs/OSPs WITH MORE THAN \$1 BILLION IN TOLL REVENUE (AT&T, MCI, SPRINT, LDDS WORLDCOM -- FRONTIER?) TO MOVE TO A PER-CALL SYSTEM**

## **COMPENSATION FOR LEC PAYPHONES**

- **"DIAL-AROUND" IMPACT ON LEC PAYPHONES IS DIFFERENT FROM IMPACT ON IPPS**
  - **AVAILABILITY OF SUBSIDIES FROM SWITCHED ACCESS CHARGES, OTHER REGULATED SERVICE ENSURES LECs ARE COMPENSATED FOR USE OF THEIR PAYPHONES**
  
- **BUT SOME LECs HAVE PROPOSED INITIAL STEPS TOWARD MORE DIRECT RECOVERY OF PAYPHONE COSTS**
  - **ON APRIL 26, 1995, AMERITECH REQUESTED WAIVER TO RECOVER PAYPHONE ELEMENT OF INTERSTATE ACCESS CHARGES FROM AN ACCESS SURCHARGE APPLIED ONLY TO INTERSTATE CALLS ORIGINATING FROM PAYPHONES**
  
  - **ON JUNE 7, 1995, SOUTHWESTERN BELL REQUESTED SIMILAR WAIVER**
  
- **ACCESS CHARGE WAIVERS ARE PIECEMEAL APPROACH: BROADER REFORM WOULD REMOVE LEC PAYPHONES FROM LEC RATE BASE**

**PENDING PETITIONS  
TO EQUALIZE CONDITIONS FOR  
INDEPENDENT AND LEC PUBLIC PAYPHONES**

- **PUBLIC TELEPHONE COUNCIL, PETITION FOR DECLARATORY RULING THAT BELL OPERATING COMPANY PAY TELEPHONES ARE CUSTOMER PREMISES EQUIPMENT FOR REGULATORY PURPOSES**

FILED JULY 18, 1988

**CONGRESS HAS ADMONISHED  
THE FCC TO REVIEW THE ISSUES**

- **1990 SENATE COMMITTEE REPORT ON TOCSIA:**  
  
". . . THE COMMITTEE BELIEVES THE FCC SHOULD ADDRESS [THE 1988 PTC PETITION AND THE 1989 APCC PETITION] PROMPTLY."
  
- **1994 SENATE BILL CONTAINED A SECTION ADDRESSING PAYPHONES. THE COMMITTEE REPORT ON S.1822 STATED:**  
  
". . . A PETITION REQUESTING THE FCC TO ADDRESS THESE ISSUES HAS BEEN PENDING FOR 6 YEARS. SECTION 235 IS INTENDED TO ENSURE THAT THESE LONGSTANDING PROBLEMS ARE ADDRESSED."

**1995 SENATE AND HOUSE TELECOM BILLS  
DIRECT THE COMMISSION  
TO ADDRESS PAYPHONE ISSUES**

- **BOTH S. 652 AND H.R. 1555 STATE:**

**"ANY BELL OPERATING COMPANY . . . (1) SHALL NOT SUBSIDIZE ITS PAYPHONE SERVICE DIRECTLY OR INDIRECTLY WITH REVENUE FROM ITS TELEPHONE EXCHANGE SERVICE OR ITS EXCHANGE ACCESS SERVICE; AND (2) SHALL NOT PREFER OR DISCRIMINATE IN FAVOR OF ITS PAYPHONE SERVICES."**

- **S. 652 DIRECTS THE COMMISSION TO:**

**". . . PRESCRIBE REGULATIONS TO CARRY OUT THIS SECTION [AND] DETERMINE WHETHER IT IS APPROPRIATE TO REQUIRE THE BELL OPERATING COMPANIES TO PROVIDE PAYPHONE SERVICE . . . THROUGH A SEPARATE SUBSIDIARY."**

- **H.R. 1555 DIRECTS THE COMMISSION TO:**

**"ESTABLISH A PER CALL COMPENSATION PLAN TO ENSURE THAT ALL PAYPHONE SERVICES PROVIDERS ARE FAIRLY COMPENSATED FOR EACH AND EVERY COMPLETED INTRASTATE AND INTERSTATE CALL USING THEIR PAYPHONE . . . ."**

**"DISCONTINUE . . . ALL INTRASTATE AND INTERSTATE PAYPHONE SUBSIDIES FROM BASIC EXCHANGE AND EXCHANGE ACCESS REVENUES . . . ."**

**"PRESCRIBE A SET OF NONSTRUCTURAL SAFEGUARDS [WHICH] AT A MINIMUM, [ARE] EQUAL TO THOSE ADOPTED IN [COMPUTER III] . . . ."**

## COMPARISON OF THE RESPECTIVE PAYPHONE PROVISIONS IN H.R. 1555 & S. 652

PROVISION	S. 652	H.R. 1555
RBOCs ARE PROHIBITED FROM CROSS-SUBSIDIZING THEIR PAYPHONE OPERATIONS FROM EXCHANGE AND EXCHANGE ACCESS REVENUE.	X	X
RBOCs MAY NOT DISCRIMINATE IN FAVOR OF THEIR OWN PAYPHONES.	X	X
RBOC PAYPHONE OPERATIONS MUST BE REMOVED FROM LOCAL EXCHANGE RATE BASE.		X
FCC IS DIRECTED TO DEVELOP, WITHIN 9 MONTHS, A PER-CALL COMPENSATION PLAN.		X
RBOCs WILL BE PERMITTED TO NEGOTIATE SELECTION OF INTERLATA CARRIER(S) FOR THEIR PAYPHONES, BUT PREMISES OWNER RETAINS THE FINAL CHOICE OF CARRIER(S). EXISTING CONTRACTS ARE GRANDFATHERED.		X
FCC IS DIRECTED TO IMPLEMENT NONSTRUCTURAL SAFEGUARDS ON RBOC PAYPHONE OPERATIONS TO IMPLEMENT PROVISIONS BANNING CROSS-SUBSIDY AND DISCRIMINATION. <u>COMPUTER III</u> SAFEGUARDS ARE THE MINIMUM STANDARD.		X
FCC IS DIRECTED TO CONDUCT A RULEMAKING TO DETERMINE WHETHER IT IS APPROPRIATE, IN ORDER TO IMPLEMENT PROHIBITIONS ON CROSS-SUBSIDY AND DISCRIMINATION, TO REQUIRE RBOCs TO PROVIDE PAYPHONE SERVICE THROUGH SEPARATE SUBSIDIARY.	X	
STATES ARE PREEMPTED FROM IMPOSING CONFLICTING RULES.		X
FCC IS DIRECTED TO CONDUCT A RULEMAKING ON THE PROVISION AND MAINTENANCE OF PUBLIC INTEREST PAYPHONES.		X

# **REDEFINING LEC PAYPHONES TO ESTABLISH A UNIFORM PAYPHONE POLICY**

## **I. BASIS**

### **A. FCC'S COMPUTER II POLICY**

- 1. DEREGULATED ALL CPE**
- 2. REMOVED CPE FROM REGULATED CARRIER ACCOUNTS**
- 3. UNBUNDLED CPE FROM NETWORK SERVICE**

### **B. FCC EXEMPTED PAYPHONES**

- 1. TECHNOLOGICAL REASONS**
- 2. NO COMPETITION AT THE TIME**

## **II. HOW CPE POLICY WOULD APPLY TO LEC PAYPHONES**

### **A. ELEMENTS OF CPE POLICY**

#### **1. LEC PAYPHONES ARE DEFINED AS DEREGULATED CPE**

**A. LEC PAYPHONE COSTS ARE REMOVED FROM THE EXCHANGE SERVICE RATE BASE AND REVENUE REQUIREMENT**

**B. LEC PAYPHONE OPERATIONS BECOME A SEPARATE ACCOUNTING ENTITY (SHOULD BE A SEPARATE SUBSIDIARY)**

**C. DETAILS IN ISSUE PAPER**

#### **2. LEC PAYPHONES ARE OPERATED LIKE IPPS**

**A. "LEC PAYPHONE COMPANY" HAS "SUBSCRIBER" RELATIONSHIP TO "LEC"**

**B. ALL NETWORK SERVICES OBTAINED FROM LEC ARE OBTAINED AT TARIFFED RATES**

**C. COIN PAYPHONE SERVICE TO END USERS IS PROVIDED ON A "RESALE" BASIS**

#### **3. LEC EXCHANGE NETWORK OPERATION MAY NOT DISCRIMINATE BETWEEN LEC PAYPHONES AND INDEPENDENT PAYPHONES IN RATES, INTERCONNECTION OR OTHER PRACTICES**

#### **4. ANY COMPENSATION PAID FROM LECs' REGULATED REVENUES FOR DELIVERY OF PAYPHONE TRAFFIC WILL BE AVAILABLE ON A NONDISCRIMINATORY BASIS TO LEC AND INDEPENDENT PAYPHONE OPERATIONS**

## **B. REGULATORY STATUS**

- 1. LEC PAYPHONES HAVE THE SAME REGULATORY STATUS AS INDEPENDENT PAYPHONES**
- 2. PAYPHONE RATES AND SERVICE TO END USERS CAN REMAIN REGULATED BY STATES -- BUT REGULATION IS THE SAME FOR LEC AND INDEPENDENT PAYPHONES**
- 3. AT THE FEDERAL LEVEL, THE FCC DETERMINES WHETHER AND HOW ALL PAYPHONE OPERATIONS WILL BE FUNDED FROM INTERSTATE ACCESS CHARGES, AS WELL AS DETERMINING THE COMPENSATION FOR "DIAL-AROUND" INTERSTATE CALLS (SEE III.F. BELOW)**

## **C. INTERCONNECTION**

- 1. LEC PAYPHONES CAN CONTINUE TO USE "COIN LINE" FUNCTIONS (E.G., ANSWER SUPERVISION, CENTRAL-OFFICE COIN CONTROL), BUT THE FUNCTIONS ARE UNBUNDLED, TARIFFED, AND MADE AVAILABLE TO INDEPENDENT PAYPHONES AS WELL IN ACCORDANCE WITH ESTABLISHED ONA/CEI PRINCIPLES**
- 2. THIS ALLOWS INNOVATIVE COMBINATIONS OF CO-AND CPE-BASED SERVICES**

### **III. ONE POLICY FOR ALL PAYPHONES**

- A. SAME CHARGES FOR DIAL TONE, NETWORK USAGE AND OTHER LEC SERVICES APPLY TO LEC AND INDEPENDENT PUBLIC PAYPHONES (OR, NO CHARGE APPLIES TO EITHER LEC OR IPP)**
- 1. AT FEDERAL LEVEL, SAME END USER CHARGE APPLIES TO LEC AND INDEPENDENT PUBLIC PAYPHONES**
- B. CHARGES FOR DIAL TONE, USAGE, ETC. ARE SET BASED ON COST AND BASED ON REGULATORS' DETERMINATIONS AS TO WHETHER PAYPHONES SHOULD BE A "CONTRIBUTORY," "SUBSIDIZED," OR "BREAK-EVEN" SERVICE**
- 1. REGULATORS MAY MAKE POLICY CHOICE FOR RELATIVELY INEXPENSIVE, WIDELY AVAILABLE PAYPHONE SERVICE, WHICH MAY REQUIRE A SUBSIDY**
  - 2. REGULATORS MAY DECIDE THAT PAYPHONES SHOULD "PAY THEIR OWN WAY," EVEN IF THE RESULT IS MORE EXPENSIVE OR LESS WIDELY AVAILABLE PAYPHONE SERVICE**
  - 3. EITHER WAY, A SINGLE POLICY CHOICE FOR ALL COMPETITORS RESULTS IN EQUAL NETWORK CHARGES FOR ALL COMPETITORS**
- C. SAME OBLIGATIONS TO OFFER "PUBLIC SERVICE" PAYPHONES APPLY TO LEC AND INDEPENDENT PUBLIC PAYPHONES**

- D. SAME LEC COIN FUNCTIONS ARE AVAILABLE, ON UNBUNDLED BASIS, AT SAME CHARGE, TO LEC AND INDEPENDENT PUBLIC PAYPHONES
- E. SIMILARLY, SAME FRAUD PROTECTION FUNCTIONS -- INCLUDING ANY LIMITATIONS ON LIABILITY -- APPLY TO LEC AND INDEPENDENT PUBLIC PAYPHONES
- F. SAME COMPENSATION POLICY APPLIES TO LEC AND INDEPENDENT PUBLIC PAYPHONES
1. IF FCC DETERMINES THAT LEC PAYPHONES SHOULD CONTINUE TO BE FUNDED IN PART THROUGH ACCESS CHARGES, AS THEY ARE TODAY, THEN INDEPENDENT PUBLIC PAYPHONES ALSO WOULD BE FUNDED AT AN EQUIVALENT COMPENSATION RATE
  2. IF FCC DETERMINES THAT THE ONLY MANDATORY INTERSTATE COMPENSATION TO PAYPHONE PROVIDERS SHOULD BE THE PAYMENT FOR "DIAL-AROUND" CALLS, THEN THAT PAYMENT WILL APPLY EQUALLY TO LEC AND INDEPENDENT PUBLIC PAYPHONES

## **CONSUMER PROTECTION ISSUES**

- **BLOCKING**
  - **TOCSIA RULES NOW REQUIRE UNBLOCKING OF ALL ACCESS CODES**
  - **BLOCKING HAS BEEN SUBSTANTIALLY ELIMINATED POST-TOCSIA**
  - **APCC IS ACTIVELY PROMOTING UNBLOCKING**
  - **APCC IS PLANNING SELF-ENFORCEMENT PROGRAM**
  
- **OPERATOR SERVICE RATES**
  - **ORIGINS OF PROBLEM: STRUCTURAL IMBALANCES IN INDUSTRY**
  - **SOME INDUSTRY PARTICIPANTS ARE EXPLOITING SHORT-TERM OPPORTUNITIES TO "GOUGE" CUSTOMERS**
  - **LEC PAYPHONES ARE ESPECIALLY VULNERABLE**
    - **BELL COMPANIES DO NOT CHOOSE OSP**
    - **"SLAMMING" EPIDEMIC**
  - **MANY STATES NOW HAVE CAPS**
  - **FCC'S 1991-92 TOCSIA INVESTIGATIONS GENERATED "INFORMAL" CAP OF \$6.58 FOR 8-MINUTE OPERATOR ASSISTED CALL**

# **RATE CEILING PROPOSAL**

**CC DOCKET No. 92-77**

**DA 95-473**

**MARCH 13, 1995**

**PROPOSAL FOR CEILINGS ON INTERSTATE 0 + /0- RATES WAS  
SUBMITTED BY:**

**APCC**

**COMPTel**

**BELL ATLANTIC, BELL SOUTH, NYNEX, U S WEST**

**MFS, TELEPORT**

**RATE CEILING PLAN IS PROPOSED AS AN ALTERNATIVE TO "BILLED  
PARTY PREFERENCE" (BPP)**

**FCC WOULD SET RATE BENCHMARKS**

**OSPs EXCEEDING BENCHMARKS WOULD BE SUBJECT TO  
DOMINANT CARRIER STYLE RATE REGULATION (LONGER NOTICE,  
COST JUSTIFICATION, ETC.)**

**LECS WOULD MONITOR AND REPORT BILLING OF RATES ABOVE  
BENCHMARKS**

**APCC SUPPORTS A REQUIREMENT FOR OSPs TO PROVIDE AN  
AUDIBLE WARNING IF THEIR RATES EXCEED THE BENCHMARK  
LEVELS PROPOSED**

**FCC HAS REQUESTED COMMENT ON THIS AND ANOTHER  
PROPOSAL BY THE NATIONAL ASSOCIATION OF ATTORNEYS  
GENERAL**

## PROPOSED BENCHMARK RATE CEILINGS

<u>COLLECT, CALLING CARD, THIRD PARTY</u>	<u>AT&amp;T MAXIMUM</u>
1 MINUTE = \$3.75	\$2.41
2 MINUTES = \$4.25	\$2.72
3 MINUTES = \$4.75	\$3.03
4 MINUTES = \$5.25	\$3.34
5 MINUTES = \$5.50	\$3.65
6 MINUTES = \$5.95	\$3.96
7 MINUTES = \$6.20	\$4.27
8 MINUTES = \$6.65	\$4.58
9 MINUTES = \$7.00	\$4.89
10 MINUTES = \$7.35	\$5.20
(35¢ /ADDIT. MIN.)	(31¢/ADDIT. MIN.)

## **MANY INDEPENDENT PUBLIC PAY TELEPHONES ARE BEING INSTALLED IN UNDERSERVED AREAS**

- **SURVEY DATA INDICATE THAT ABOUT 45% OF INSTALLED INDEPENDENT PUBLIC PAYPHONES ARE IN LOCATIONS WHERE PAY TELEPHONE SERVICE WAS NOT PREVIOUSLY PROVIDED**
- **STATE OF NEW YORK QUOTED AS CONCLUDING THAT, IN DISADVANTAGED AREAS, APPROXIMATELY 40% OF PAY TELEPHONES ARE COMPETITIVELY PROVIDED**
- **LEC "ASSET MANAGEMENT" / "ROUTE OPTIMIZATION" PROGRAMS REDUCING AVAILABILITY OF LEC PAYPHONES TO ECONOMICALLY DISADVANTAGED AREAS**
- **IPP PROVIDERS ENSURE CONTINUING SERVICE TO THESE AREAS**

**ATTACHMENTS**

**TAB**

**TITLE**

1. H.R. 1555 PAYPHONE PROVISION AND COMMITTEE REPORT
2. S. 652 PAYPHONE PROVISION AND COMMITTEE REPORT
3. ISSUES RELATED TO UNBUNDLING OF LEC PUBLIC  
PAYPHONE SERVICE
4. TONKA TOOLS, INC., 58 RR 2d 903 (1985)
5. ORDER OF THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION  
DOCKET NO. UT-920174  
MARCH 17, 1995
6. ORDER OF THE ILLINOIS COMMERCE COMMISSION  
DOCKET NO. 88-0412  
JUNE 7, 1995
7. ORDER OF THE ILLINOIS COMMERCE COMMISSION  
DOCKET NO. 92-0400  
OCTOBER 5, 1995



H.R. 1555 PAYPHONE PROVISION AND COMMITTEE REPORT  
THIS PROVISION HAS THE SUPPORT OF ALL THE RBOCS

1       *relay messages (other than telecommunications relay*  
2       *services) from incoming telephone calls on behalf of*  
3       *the telemessaging customers (other than any service*  
4       *incidental to directory assistance).*

5       **“SEC. 274. PROVISION OF PAYPHONE SERVICE.**

6       “(a) **NONDISCRIMINATION SAFEGUARDS.**—*After the ef-*  
7       *fective date of the rules prescribed pursuant to subsection*  
8       *(b), any Bell operating company that provides payphone*  
9       *service—*

10               “(1) *shall not subsidize its payphone service di-*  
11               *rectly or indirectly with revenue from its telephone*  
12               *exchange service or its exchange access service; and*

13               “(2) *shall not prefer or discriminate in favor of*  
14               *it payphone service.*

15       “(b) **REGULATIONS.**—

16               “(1) **CONTENTS OF REGULATIONS.**—*In order to*  
17               *promote competition among payphone service provid-*  
18               *ers and promote the widespread deployment of*  
19               *payphone services to the benefit of the general public,*  
20               *within 9 months after the date of enactment of this*  
21               *section, the Commission shall take all actions nec-*  
22               *essary (including any reconsideration) to prescribe*  
23               *regulations that—*

24                       “(A) *establish a per call compensation plan*  
25                       *to ensure that all payphone services providers*

1        *are fairly compensated for each and every com-*  
2        *pleted intrastate and interstate call using their*  
3        *payphone, except that emergency calls and tele-*  
4        *communications relay service calls for hearing*  
5        *disabled individuals shall not be subject to such*  
6        *compensation;*

7            *“(B) discontinue the intrastate and inter-*  
8        *state carrier access charge payphone service ele-*  
9        *ments and payments in effect on the date of en-*  
10       *actment of this section, and all intrastate and*  
11       *interstate payphone subsidies from basic ex-*  
12       *change and exchange access revenues, in favor of*  
13       *a compensation plan as specified in subpara-*  
14       *graph (A);*

15           *“(C) prescribe a set of nonstructural safe-*  
16       *guards for Bell operating company payphone*  
17       *service to implement the provisions of para-*  
18       *graphs (1) and (2) of subsection (a), which safe-*  
19       *guards shall, at a minimum, include the non-*  
20       *structural safeguards equal to those adopted in*  
21       *the Computer Inquiry-III CC Docket No. 90-623*  
22       *proceeding; and*

23           *“(D) provide for Bell operating company*  
24       *payphone service providers to have the same*  
25       *right that independent payphone providers have*

1           to negotiate with the location provider on select-  
2           ing and contracting with, and, subject to the  
3           terms of any agreement with the location pro-  
4           vider, to select and contract with the carriers  
5           that carry interLATA calls from their  
6           payphones, and provide for all payphone service  
7           providers to have the right to negotiate with the  
8           location provider on selecting and contracting  
9           with, and, subject to the terms of any agreement  
10          with the location provider, to select and contract  
11          with the carriers that carry intraLATA calls  
12          from their payphones.

13           “(2) PUBLIC INTEREST TELEPHONES.—In the  
14          rulemaking conducted pursuant to paragraph (1), the  
15          Commission shall determine whether public interest  
16          payphones, which are provided in the interest of pub-  
17          lic health, safety, and welfare, in locations where  
18          there would otherwise not be a payphone, should be  
19          maintained, and if so, ensure that such public inter-  
20          est payphones are supported fairly and equitably.

21           “(3) EXISTING CONTRACTS.—Nothing in this sec-  
22          tion shall affect any existing contracts between loca-  
23          tion providers and payphone service providers or  
24          interLATA or intraLATA carriers that are in force  
25          and effect as of the date of the enactment of this Act.

1       “(c) *STATE PREEMPTION.*—To the extent that any  
2 *State requirements are inconsistent with the Commission’s*  
3 *regulations, the Commission’s regulations on such matters*  
4 *shall preempt State requirements.*

5       “(d) *DEFINITION.*—As used in this section, the term  
6 *‘payphone service’ means the provision of public or semi-*  
7 *public pay telephones, the provision of inmate telephone*  
8 *service in correctional institutions, and any ancillary serv-*  
9 *ices.”.*

10 **SEC. 103. FORBEARANCE FROM REGULATION.**

11       *Part I of title II of the Act (as redesignated by section*  
12 *101(c) of this Act) is amended by inserting after section*  
13 *229 (47 U.S.C. 229) the following new section:*

14 **“SEC. 230. FORBEARANCE FROM REGULATION.**

15       “(a) *AUTHORITY TO FORBEAR.*—The Commission  
16 *shall forbear from applying any provision of this part or*  
17 *part II (other than sections 201, 202, 208, 243, and 248),*  
18 *or any regulation thereunder, to a common carrier or serv-*  
19 *ice, or class of carriers or services, in any or some of its*  
20 *or their geographic markets, if the Commission determines*  
21 *that—*

22               “(1) *enforcement of such provision or regulation*  
23 *is not necessary to ensure that the charges, practices,*  
24 *classifications, or regulations by, for, or in connection*

COMMUNICATIONS ACT OF 1995

JULY 24, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,  
submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 1555]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 1555) to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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Section 273(b) prohibits discrimination by a telephone company in the provision of these services, either by refusing to provide its competitors with the same network services it provides itself, or by cross-subsidizing from its local telephone service.

Section 273(c) establishes procedures for expedited consideration of complaints of violations of subsection (b), requiring the Commission to make a final determination within 120 days after the receipt of a complaint. If a violation is found, the Commission is required to issue a cease and desist order within 60 days.

Section 274 of the Communications Act addresses the competitive imbalances that exist in the payphone industry because the BOCs offer their competitive pay telephone service as an integral part of their regulated local exchange operations. As a result, the BOCs are assured of recovering their payphone costs, even if those costs must be subsidized by other regulated accounts. By contrast, independent payphone companies may pay the BOCs for essential network services and must recover all their costs from revenues derived from competitive activities alone.

Section 274 terminates the current system of payphone regulation. The Commission is directed to adopt rules that eliminate all discrimination between BOC and independent payphones and all subsidies or cost recovery for BOC payphones from regulated interstate or intrastate exchange or exchange access revenue. The BOC payphone operations will be transferred, at an appropriate valuation, from the regulated accounts associated with local exchange services to the BOCs' unregulated books. The Commission's implementing safeguards must be at least equal to those adopted in the Commission's *Computer III* proceedings. These safeguards were adopted in *Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry)*, and a number of related Commission proceedings. In place of the existing regulatory structure, the Commission is directed to establish a new system whereby all payphone service providers—BOC and independent—are fairly compensated for every interstate and intrastate call made using their payphones, including, for example, "toll-free" calls to subscribers to 800 and new 888 services and calls dialed by means of carrier access codes. Carriers and customers that benefit from the availability of a payphone should pay for the service they receive when a payphone is used to place a call. In crafting implementing rules, the Commission is not bound to adhere to existing mechanisms or procedures established for general regulatory purposes in other provisions of the Communications Act of 1934.

Currently, under a 1988 court interpretation of the MFJ, the BOCs are prohibited from selecting the interLATA carriers serving their payphones, or even negotiating with location owners concerning the selection of interLATA carriers. Section 274(b)(1)(D) removes that prohibition. Section 274(b)(1)(D) also makes it possible for independent payphone service providers, as well as BOCs, in all jurisdictions, to select the intraLATA carriers serving their payphones. However, existing contracts and agreements between location providers and payphone service providers, interLATA, or intraLATA carriers are grandfathered. Location providers prospectively also have control over the ultimate choice of interLATA and

intraLATA carriers in connection with their choice of payphone service providers.

Section 274(b)(2) directs the Commission to determine whether it is necessary to support the maintenance of "public interest payphones." This term refers to payphones at locations where payphone service would not otherwise be available as a result of the operation of the market. Thus, the term does *not* apply to a payphone located near other payphones, or to a payphone that, even though unprofitable by itself, is provided for a location provider with whom the payphone provider has contract. Section 274(c) authorizes the Commission to preempt State regulations that are inconsistent with the Commission's regulations under section 274.

*Section 103. Forbearance From Regulation*

This section creates a new section 230 of the Communications Act of 1934 requiring the Commission to forbear from Title II common carrier regulation, with certain limited exceptions. Given that the purpose of this legislation is to shift monopoly markets to competition as quickly as possible, the Committee anticipates this forbearance authority will be a useful tool in ending unnecessary regulation.

*Section 104. Privacy of Customer Information*

This section adds a new section 222 to the Communications Act of 1934. Section 222 establishes privacy protections for customer proprietary network information (CPNI). Section 222(a) imposes on carriers a statutory duty to provide subscriber list information on a timely basis, under nondiscriminatory and reasonable rates, terms and conditions, to any publisher of directories upon request. Subscriber list information is information about a subscriber's name, telephone number, address, or advertising classification that the carrier possesses, including information for recently connected customers. This provision is intended to ensure that persons who use subscriber information, including publishers of telephone directories unaffiliated with LECs, are able to purchase published or soon-to-be published subscriber listings and updates from carriers on reasonable terms and conditions. Reasonable terms and conditions include, but are not limited to, the ability to purchase listings and updates on a periodic basis at reasonable prices, by zip code or area code, and in electronic format.

LECs have total control over subscriber list information. Over the past decade, some LECs have charged excessive and discriminatory prices for subscriber listings. Some have imposed unreasonable conditions such as requiring that the listings be purchased only on a statewide basis or refusing outright to sell listings or updates. This provision prohibits such practices. Section 222 ensures that independent directory publishers have access to subscriber listing information gathered by all LECs. This section meets the needs of independent publishers for access to subscriber data on reasonable terms and conditions, while at the same time ensuring that the telephone companies that gather and maintain such data are fairly compensated for the value of the listings. Section 222 requires that subscriber listing information be made available "under

