

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

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of))
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Amendment of Policies and Rules) CC Docket No. 94-158
Concerning Operator Service))
Providers and Call Aggregators))
_____))

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FURTHER REPLY COMMENTS OF THE
AMERICAN PUBLIC COMMUNICATIONS COUNCIL

The American Public Communications Council, Inc. ("APCC")¹ submits this reply to comments to the Commission's Further Notice of Proposed Rule Making ("FNPRM") in this proceeding, FCC 94-158, released March 5, 1996. The FNPRM seeks comment on a proposed amendment to Section 64.703(b) of the Commission's rules to require public phone aggregators to update the consumer information on their phones within thirty (30) days of a change in the presubscribed operator services provider ("OSP").

As with any regulation the Commission may adopt, the Commission must consider the extent to which its proposed regulation will impose an undue burden on the industry. Any payphone provider with a substantial number of phones faces the potential of unreasonably high labor costs if it does not make its maintenance

¹ APCC is the nation's largest trade association of independent public payphone ("IPP") providers. APCC's more than 1,400 members range from small, individual proprietors who maintain a handful of phones, to several large, publicly-traded corporations responsible for tens of thousands of phones all across the nation.

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procedures efficient. If the provider's phones are widely dispersed throughout a broad geographic area (a situation which is not unusual), in order to maintain control of costs it is critical for the provider to minimize unnecessary site visits by combining tasks such as regulatory compliance with regularly scheduled maintenance. A rigid 30 day time requirement, without taking into account the reasonable and necessary business practices of differently situated providers, is unnecessarily burdensome to payphone providers with many widely dispersed phones. See, e.g., Further Comments of Southwestern Bell at 3; and Further Comments of BellSouth at 3; cf. Comments of Ameritech at 2 (recommending 30 days as a general guideline for updating information with an absolute outer limit of 60 days).

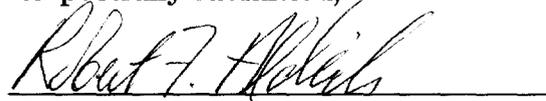
Indeed, there are a variety of circumstances which may make compliance with a rigid time requirement impractical. For example, although IPP providers frequently select the presubscribed OSP for their phones, there are certain situations where that decision is outside of the IPP providers' control, such as in a contract with a large location provider who retains the ability to choose the OSP. Thus, just as the Regional Bell Operating Companies have recognized the impracticalities of a rigid time requirement due to their inability to control OSP selection, a rigid time requirement can be equally troublesome for IPP providers.

Another situation which may make compliance with a rigid time requirement impractical is in a sudden change of an OSP for a large number of phones, such as in the acquisition of a medium to large sized payphone company. As discussed above, APCC has members who maintain and operate tens of thousands of phones throughout all regions of the nation. If the OSP selection for such a large number of phones were to

suddenly change, it would be unduly burdensome for the payphone provider to be required to update the consumer information for all of its phones at once and within a rigid time frame.

Thus, as APCC suggested in its Reply Comments dated March 24, 1995, and as the majority of other parties filing comments all agree, the Commission's rules must be flexible enough to allow an aggregator to avoid liability based on a specified time limit when the aggregator can show that the consumer information on its phones is updated in the course of regularly scheduled maintenance visits. Such flexibility would further the Commission's goal of ensuring that consumers are aware of important information in a timely manner without imposing an undue burden on the industry.

Respectfully submitted,



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