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

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
)  
Policy and Rules Concerning the )  
Interstate, Interexchange Marketplace )  
)  
Implementation of Section 254(g) of the )  
Communications Act of 1934, as amended )

CC Docket No. 96-61

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**COMMENTS OF THE TELECOMMUNICATIONS  
MANAGEMENT INFORMATION SYSTEMS COALITION**

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Cheryl A. Tritt  
Joan E. Neal  
MORRISON & FOERSTER LLP  
2000 Pennsylvania Avenue, N.W.  
Suite 5500  
Washington, D.C. 20006  
(202) 887-1500

Counsel for the Telecommunications  
Management Information Systems Coalition

Dated: April 25, 1996

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## **SUMMARY**

The public availability of rate information is critical to customers who are trying to make informed service decisions in a robustly competitive interexchange marketplace exhibiting increasingly complex and customized pricing structures. Despite this increasing need for information, there is no reliable alternative to obtaining this information absent publicly filed tariffs. The public interest requires that any detariffing policy that may be adopted by the Commission be supplemented by a simple requirement that carriers make their rate information centrally available not only to the Commission but also to the public.

In this rulemaking the Commission proposes to rely increasingly on private parties, acting through the Section 208 complaint process, to enforce the statutory obligations of carriers. At the same time, the Commission proposes, through detariffing, to eliminate the principal means through which potential complainants ascertain the strength of their claims and acquire the information needed to support those claims. A requirement for centrally and publicly available pricing information will make the Section 208 process meaningful and will not burden the interexchange carriers and will not hinder competition. In fact, such a requirement will make the interstate, interexchange market more efficient.

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**COMMENTS OF THE TELECOMMUNICATIONS  
MANAGEMENT INFORMATION SYSTEMS COALITION**

Pursuant to the Notice of Proposed Rulemaking (“NPRM”) released by the Federal Communications Commission (“FCC” or “Commission”) on March 25, 1996 in the above-captioned proceeding, the Telecommunications Management Information Systems Coalition (the “Coalition”) submits these Comments.

**I. INTRODUCTION & SUMMARY**

The public availability of rate information is critical to customers who are trying to make informed service decisions in a robustly competitive interexchange marketplace exhibiting increasingly complex and customized pricing structures. Hundreds of long distance carriers offer hundreds, even thousands, of different and often complicated services and price plans to address the communications needs of the country’s businesses and residential consumers. It has become more and more important for business and residential consumers to have access to detailed pricing information in order to ensure that they make correct decisions regarding vital services and that they are treated fairly by the carriers. Despite this increasing need for information, there is no reliable alternative to

obtaining this information absent publicly filed tariffs. The public interest requires that any detariffing policy that may be adopted by the Commission be supplemented by a simple requirement that carriers make their rate information for interexchange voice and data services available not only to the Commission but also to the public.

In this rulemaking the Commission proposes to rely increasingly on private parties, acting through the Section 208 complaint process, to enforce the statutory obligations of interstate carriers to charge reasonable, nondiscriminatory, geographically averaged and integrated rates. At the same time the Commission proposes, through detariffing, to eliminate the principal means through which potential Section 208 complainants ascertain the strength of their claims and acquire the information needed to support those claims. Absent tariffs, complainants would have no reliable way to acquire this information. In order to make the Section 208 remedy meaningful, therefore, any detariffing must be accompanied by a requirement that interexchange carriers maintain their rate information for interexchange voice and data services in useable, publicly available form in a central location. Such a requirement is a simple extension of the Commission's proposal to require that this information be made available to the Commission. Further, such a requirement will not burden the interexchange carriers, will not hinder competition, and in fact will make the interstate, interexchange market more efficient by increasing and enhancing the pricing information conveniently available to consumers.

## II. STATEMENT OF INTEREST

The Coalition is composed of four telecommunications management information systems companies and was formed for the purpose of participating in this proceeding.<sup>1</sup> The four companies are Salestar, Center for Communications Management Information (“CCMI”), Tele-Tech Services (“Tele-Tech”), and Valucom, Inc.

Salestar has been in business since 1985 and employs approximately 50 people in its San Francisco office. CCMI has been in business since 1972 in Rockville, Maryland. It is owned by the United Communications Group, and approximately 10% of United’s 250 employees are dedicated to the CCMI business. Tele-Tech is a privately-held company with 25 employees in New Jersey. It has been providing its services for over 20 years. Valucom has been in business for 15 years and employs 15 people in Vienna, Virginia. Collectively, the four coalition members are small businesses of long standing that have provided essential pricing information to their customers for the past 10 to 25 years. Although the four companies differ slightly in their operations, they all gather on behalf of their customers publicly available pricing information of interstate, interexchange carriers — exclusively from publicly filed tariffs — and then abstract this information or create databases and various software pricing tools utilizing this information.

The coalition members serve a wide variety of customers, both directly and indirectly. Direct customers of the four companies include (1) business end users of all sizes, the majority of which tend to be medium-sized businesses that span a spectrum of

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<sup>1</sup> The Commission has specifically requested that parties with shared positions file joint comments. See FCC Public Notice, Commission Announces Streamlined Procedures for Rulemaking Proceedings Implementing Telecommunications Act of 1996, FCC 96-81 (Mar. 1, 1996).

goods and services, (2) call accounting companies that use this information to accurately price calls and verify that their customers are billed correctly, and (3) other telecommunications services vendors (both large and small companies, *e.g.*, cellular companies). Telecommunications services vendors in turn provide the information compiled by the coalition members to their customers. Additionally, both residential and business users can access the on-line services and Internet services provided by the coalition members. The ultimate consumers of the information compiled by the coalition members are primarily small to medium-sized business users and, with the expansion of the Internet, residential users.

Specific examples of applications for this pricing information include: (1) cellular carrier use to render consolidated bills for both the wireless and the wireline portion of calls; (2) hotel and motel use to bill outgoing guest calls prior to customer check-out, which requires pricing information prior to the receipt of the hotel bill from the carrier; (3) private payphone owner use to bill calls on a “real-time” basis (some payphones have a microchip containing a pricing information database that is regularly updated); (4) utility bill auditor use to determine discrepancies between clients’ telephone bills and the rates supposed to be in effect — discrepancies that occur often enough to sustain an active audit industry; (5) network design company use of private line rates to optimally configure both internal and external networks; and (6) international private line customer (including both U.S. companies and multi-national organizations doing business in the U.S.) use to determine the end-to-end pricing of private lines. International customers need pricing information not only for the international portion of the private line (international rates are not included in the detariffing proposal here), but also the “last mile” from the

international gateway to their premises. The “last mile” rates often are found in a separate domestic tariff. In some cases this domestic link could be over 1,000 miles and thus a significant portion of the total cost of the international line. For the U.S. to remain competitive in today’s global economy, the information required to plan and price multinational telecommunications networks needs to be readily available. Absent tariffs, there is no alternative source for providing any of the above-noted information to consumers.

The four companies make the pricing information they gather available to their customers in a variety of formats, including: (1) hard printed copies of pricing information, (2) on-line pricing information that can be accessed by customers, (3) customized database software that can be mailed to the customer, and (4) a complete electronic tariff library (including intrastate, interstate, and international rates) available with a variety of search features on CD-ROM (and soon to be available in an Internet version). The software pricing tools provide specific carrier prices when specific call information is entered into the database. (One coalition member is testing software for Internet use that will allow consumers to price specific calls of the major long distance carriers based on destination.) Some databases can direct customers to the least expensive carrier with the input of general user profile information regarding calling patterns. Tariffs are the raw material for all of these services, and no real alternative exists for obtaining the information needed to create and provide these services.

The Coalition members and their customers will be critically affected by the outcome of this proceeding. Without access to a publicly and centrally available repository of interexchange carrier rate information, the Coalition’s customers cannot

realistically determine whether interexchange carriers are engaging in unlawful rate practices, and cannot obtain the kind of timely, accurate rate information needed to make informed decisions about their communications services. Neither result is consistent with the public interest in a competitive, efficient interexchange market.

### **III. ARGUMENT**

#### **A. The Public Interest Is Served By A Requirement That Interstate, Interexchange Carrier Pricing Information Be Available To The Public**

The Commission tentatively concludes that, even if it eliminates tariffing requirements for this market, “non-dominant carriers should be required to maintain at their premises price and service information regarding all of their interstate, interexchange offerings, that they can submit to the Commission upon request.”<sup>2</sup> The Coalition urges a single, modest extension of this proposed requirement: specifically, that interexchange carrier price and service information be centrally maintained and made available to the *public*, as well as the Commission. Such a public availability requirement is essential for the enforcement of statutory carrier obligations, the robust competitiveness and efficient operation of the interexchange market, and the informational needs of consumers.

##### **1. Publicly Available Rate Information is Essential to the Section 208 Complaint Process**

Beginning with its deregulatory initiatives of the 1980s, the Commission consistently has found that removal of tariffing requirements for nondominant carriers will not harm the public interest *because of the continued availability of the Section 208 complaint process*. A series of Commission decisions found that private parties are fully

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<sup>2</sup> NPRM at ¶ 36.

capable of protecting the public interest against common carriers that charge unreasonable and discriminatory rates in violation of Sections 201 and 202 of the Communications Act.<sup>3</sup> Similarly, in the present rulemaking, the Commission proposes to extend the reach of private enforcement to embrace, not only Sections 201 and 202 of the 1934 Act, but also the requirements of the Telecommunications Act of 1996 concerning geographic averaging and integration of interexchange carrier rates.<sup>4</sup>

However, the Commission's proposal undermines the very process on which it intends to rely. As the Supreme Court has pointed out, Section 208 is meaningless unless common carrier rate information is available to the public. "The provisions [of the Act] allowing customers or competitors to challenge rates as unreasonable or as discriminatory . . . would not be susceptible of effective enforcement if rates were not publicly filed."<sup>5</sup> If the Commission intends both to eliminate tariffing requirements and to increase the enforcement burden on the Section 208 process, therefore, it must find a way to ensure that rate information continues to be available to the public. Although the Commission proposes that this information be retained for its own use in adjudicating complaints, it is just as important that the public, upon whom the Commission relies to be the guardian of the complaint process, have access to this information. At the same time, the availability of pricing information could result in fewer complaints alleging Sections 201 and 202

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<sup>3</sup> See, e.g., *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 99 FCC 2d 1020, 1028 (1985); *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, 9 FCC Rcd 1411 at 1479, ¶ 176 (1994).

<sup>4</sup> NPRM at ¶¶ 28, 70, 78.

<sup>5</sup> *MCI Telecommunications Corp. v. American Tel. and Tel. Co.*, 114 S. Ct. 2223, 2231 (1994).

violations because customers (and other carriers) will have better access to information. Easily accessible rate information also will serve as a deterrent to carrier discriminatory conduct.

A requirement that interexchange carriers keep their rate information on file for public review will satisfy this requirement even if the FCC ultimately decides that mandatory tariffing is contrary to the public interest. Unlike the Section 203 tariff process, maintenance of publicly available rate information will not delay the introduction of new services or limit the pricing flexibility of nondominant carriers. Services still can be added and prices changed at will, so long as those rates and services are promptly added to the depository of public rate information. Nor is there any serious concern, in a marketplace that is about to experience a dramatic influx of new, facilities-based competition, that the maintenance of publicly available information will lead to collusive pricing among carriers.<sup>6</sup>

**2. Publicly Available Rate Information Will Benefit Consumers That Have No Other Reasonable Way to Access This Information, and Will Improve the Efficiency of the Interexchange Market**

A requirement that interexchange carriers make their rates publicly available also is prudent economic policy. Economists agree that in a competitive market (such as that for interstate, interexchange telecommunications service),<sup>7</sup> more information helps to make

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<sup>6</sup> When the Commission adopted its detariffing policy in the mid-1980's, it expressly found that the maintenance of such information for Commission use would permit the Commission to meet its statutory obligation of ensuring just and reasonable rates. *See Policy and Rules Concerning Rates for Competitive Common Carrier Services*, 99 FCC 2d 1020, 1035 (1985).

<sup>7</sup> *See, e.g., Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier*, 1995 FCC LEXIS 6877 at \*30 ("most major segments of the interexchange market are subject to substantial competition today, and the vast majority of interexchange services and transactions are subject to substantial competition").

the market function in a more competitive manner.<sup>8</sup> Any risk of collusive pricing is muted by the fact that Sections 201 and 202 of the Communications Act still apply as a deterrent to such behavior. Further, if any collusive pricing were to occur, the antitrust laws would be available to remedy the situation.<sup>9</sup>

Recognizing that the benefits of the availability of pricing information can outweigh the theoretical risks, the Commission is considering a public availability requirement in another context. Specifically, in the pending LEC/CMRS interconnection proceeding, the Commission recognized that a public filing requirement — whether at the FCC or at a state commission — could reduce carriers' ability to engage in unreasonable discrimination.<sup>10</sup>

The availability of interexchange carrier rate information is of particular importance to smaller business customers and residential customers, which lack the resources to obtain this information.<sup>11</sup> It is therefore these customers that would be most

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<sup>8</sup> R. Posner, *Antitrust Law: An Economic Perspective* at 65 (1976) (“In a market of many small sellers, the exchange of price information may serve the salutary purpose of reducing price dispersions based on inadequate knowledge and thereby improving competition”). See also *id.* at 136 (“In general, the more information sellers have about the prices and output of their competitors the more efficiently the market will operate”).

<sup>9</sup> The Commission has similarly relied on the antitrust laws in other contexts. See, e.g., *Reexamination of the Commission's Cross-Interest Policy*, 4 FCC Rcd 2208, 2213 (1989) (“Further reducing our concern . . . are remedies, in the form of federal and state antitrust laws, which may be available to reduce or deter potential anticompetitive consequences . . . . We believe that reliance on such alternative forms of deterrence will more effectively serve the public interest”); *Applications for Consent to the Transfer of Control of McCaw Cellular Communications, Inc. and Its Subsidiaries*, 10 FCC Rcd 11786, 11801 (1995) (“should AT&T/McCaw's affiliates engage in predatory pricing, aggrieved parties may seek redress either in the courts under the antitrust laws or through our complaint process”).

<sup>10</sup> *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers*, CC Docket Nos. 95-185 & 94-54, NPRM, ¶ 91, (Jan. 11, 1996).

<sup>11</sup> Economists have noted the difficulty of obtaining such information. See, e.g., R. Posner, *Antitrust Law: An Economic Perspective* at 136 (1976) (“[O]ne cannot . . . observ[e] that a seller can obtain all of the information that he wants about the prices of his competitors by asking his customers, or theirs, about

hurt by the unavailability of public pricing information either to themselves directly or to companies such as the Coalition members, which can compile the information in a cost efficient manner for end user use. Absent such resources, these customers must rely almost exclusively on advertisements, which are not necessarily objective and which can be extremely confusing even to sophisticated customers

**B. Such Information Can Be Provided in a Manner That Will Realize These Benefits Without Unduly Burdening the Commission or the Carriers**

The Coalition urges that a minimum amount of information should be required pursuant to a public availability requirement for pricing information. Generally, this information must include a description of services to which the prices apply, the rates and charges for these services, any applicable discounts, and the effective dates. Attached as Exhibit A is a more detailed list of the information that the Coalition suggests the Commission require. In order for this information to truly foster competition, however, it must be made available in a timely manner. The Coalition recommends that this pricing information be made available the same day that it becomes effective.

Further, this information could be made available cheaply, efficiently, and with a minimum of administrative burden to either the Commission or the interexchange carriers. The Coalition suggests that the best repository for such information is the Commission's outside contractor.<sup>12</sup> This existing organization is accustomed to receiving, organizing

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those prices. Since information is costly to acquire, customers do not always have good information about the competitive alternatives facing them, and they may not honestly disclose the information that they do have; a customer might try to get a better price from one seller by misrepresenting another seller's offer").

<sup>12</sup> A second choice alternative would be to establish a central clearinghouse for the deposit of pricing information. The Commission has proposed a similar type of clearinghouse to maintain information about the cost of incumbent microwave relocation for PCS. *See Amendment to the Commission's Rules*

and storing communications pricing information, and experienced in fielding public requests for such information. This mechanism also would not directly involve the Commission. The Coalition suggests that this organization retain pricing information for two years to facilitate the filing of consumer complaints.<sup>13</sup>

#### IV. CONCLUSION

In conclusion, the Coalition strongly urges the Commission to impose a mechanism for ensuring the continued public availability of interexchange pricing information, in the event that it adopts a mandatory or a permissive detariffing policy. Such a requirement will benefit all consumers (particularly smaller consumers), will permit more reliable enforcement of the Communications Act, and will further foster the competitiveness of the interstate, interexchange marketplace.

Respectfully submitted,



Cheryl A. Tritt

Joan E. Neal

MORRISON & FOERSTER LLP

2000 Pennsylvania Avenue, N.W.

Suite 5500

Washington, D.C. 20006

(202) 887-1500

Counsel for the Telecommunications  
Management Information Systems Coalition

Dated: April 25, 1996

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*Regarding a Plan for Sharing the Costs of Microwave Relocation, WT Docket No. 95-157, NPRM at ¶ 64 (1995).*

<sup>13</sup> The statute of limitations for complaints against carriers is two years. 47 U.S.C. § 415.

## Exhibit A

### Examples of Information Needed To Price A Calling Plan

#### General

- What is the name of the telephone company providing the service?
- Is it a plan or a promotion?
- Does this plan have a minimum monthly usage requirement?
- Does this plan use the special “under 40 mile vertical and horizontal” rule to calculate mileage distance?
- If the plan offers volume, term, or other discounts, what order are they applied?
- Is this plan based on another plan, if so what is that plan?
- What jurisdiction does this plan apply to (local, intraLATA, interLATA/intrastate, intraLATA/interstate, interstate)?
- If this plan is not interstate, then for what state is this plan applicable?
- What call types are applicable (direct dial, calling card, toll free, 900, etc.)
- Does this plan have special options?
- What access types are applicable (switched, dedicated, on/off net, WATS, business)?
- If a call crosses the time period with separate rates, then which rates apply. If a call begins during the day period and ends during the evening, how are the rates applied?
- Does this plan use banding such as NPA/NXX bands or state bands instead of mileage distances?
- What are the rounding methods (rounding up, down, nearest cent, half cent, etc.)?
- What is the effective date for this plan?

#### Rates

- What are the time periods for this plan (day, evening, night, peak, off-peak, flat, etc.)?
- Does this plan have separate US mainland to Hawaii pricing?
- Does this plan have separate US mainland to Alaska pricing?
- Does this plan have separate US mainland to Puerto Rico/Virgin Island pricing?
- Does this plan have separate Alaska to/from Hawaii pricing?
- What are the rates for each mileage band?
- What are the rate periods (for example, the first 18 seconds are rated at one price and all additional periods are rated in 30 second increments)?
- Does this plan have high or low hour pricing?
- Does this plan have a minimum average call duration?
- What is the calling card surcharge?
- Are there any other surcharges, if so what do they apply to?
- If this plan has time block pricing, what are the length of the time periods, applicable time of day, and rates?
- Are calling card calls included in the time block offering?
- Do calling card surcharges apply to the time block offering?
- What is the effective date for each rate?

#### Discounts

- If this plan offers volume discounts, what are they?
- If this plan offers term discounts, what are they?
- If this plan offers special discounts, what are they?
- Which discounts apply to which call types?
- Are calling card surcharges discounted?
- If this plan has a volume discount is it applied incrementally or does the aggregate usage get the highest applicable discount?
- Are these discounts based on something other than volume or term (i.e., mileage or number of calls)?
- What is the effective date for each discount type?

**Charges**

If this is an installation charge, what is it and how is it applied? For example, is it applied per line, per billed telephone number, per service site, etc.?

If this is a recurring charge, what is it and how is it applied? For example, is it applied per line, per billed telephone number, per service site, etc.?

What is the effective for this charge?

**Access Charges**

Does the plan offer dedicated access to the switched service?

If yes, then what are the intraLATA local access channel rates for the various private line services?

**Multi-point Services**

What are the rates and charges for multi-point service offerings?

**Tables and Misc. Data**

Location of IXC Points of Presence and the services available at each.

Vertical and Horizontal coordinates for Points of Presence, rate centers, etc.

CLLI code information for Points of Presence

Methods for calculating mileage

USOC codes

**CERTIFICATE OF SERVICE**

I, Kimberly E. Thomas, hereby certify that the foregoing **Comments Of The Telecommunications Management Information Systems Coalition** was hand delivered to the following on this 25th day of April:

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Chairman Reed E. Hundt  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

Commissioner Rachelle B. Chong  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

Dorothy Conway  
Federal Communications Commission  
1919 M Street, N.W., Room 234  
Washington, D.C. 20554

Timothy Fain  
OMB Desk Officer, 10236 NEOB  
725 17th Street, N.W.  
Washington, D.C. 20503

\* Janice Myles  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 544  
Washington, D.C. 20554

  
Kimberly E. Thomas

\* Filing Submitted On Diskette and Hard Copy