MarinoWARE
"THE STUD PEOPLE" QUALITY & SERVICE COUNT
A DIVISION OF WARE INDUSTRIES, INC.

Reed Hundt
Chairman
Federal Communications Commission
1919 M St. NW
Washington DC 20554

DOCKET FILE COPY ORIGINAL

Re: CC Docket No. 96-128

Dear Chairman Hundt:

I am writing on behalf of Marino\Ware, to urge the Commission to consider the potential harmful effect of its payphone order on businesses when determining the appropriate amount of payphone compensation for subscriber 800 and access code calls in its remand proceeding. Specifically, a prescribed compensation amount of $0.35 or any amount above the payphone providers true cost of providing access to subscriber 800 and access code calls would directly and adversely impact businesses by affecting their ability to use 800 service and by eliminating their ability to control costs.

To be viable, businesses must control their costs. Subscriber 800 service plays an important part in the business strategy because 800 service is an extremely cost efficient way for businesses to communicate with their customers. Businesses also rely on the ability of their employees to keep in touch with the office oftentimes by making access code calls from payphones.

An excessive payphone compensation amount like the Commission's "market-based" approach in the payphone order would erode the cost advantages provided by 800 service as businesses are required to absorb the compensation charges for calls from payphones. Businesses have little or no ability to avoid calls from payphones and thereby avoid the cost of compensation because the calling party makes the decision to use the payphone and the calling party usually does not have the ability to "shop" for a less expensive payphone. In addition, the calling party has no incentive to do so because the calling party does not pay the compensation for an 800 access code call. And, the Commission's proposal that 800 customers block calls from payphones is not a good solution because it would prevent customers from reaching the business which could ultimately mean lost business. A compensation amount of $0.35 per call would dramatically increase the cost of an 800 call to a business. It would also add significantly to the cost of access code calls. Since businesses do not know how many calls they receive from payphones, there is no way to determine, let alone plan for this increased cost. Moreover, when compensation can be a variable amount based on the amount charged for a local coin call, the ability of a business to control its costs becomes even less. List ABCDE

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Marino\Ware supports competition and market solutions over regulatory solutions, where appropriate. The Commission, however, is simply mistaken that the payphone market is competitive and that market forces will ensure that the amount of compensation will be kept at a reasonable rate. The payphone market will not work in this manner because payphone providers do not "compete" to get the business of the consumer. Rather, payphone providers compete to become the monopoly provider of service at a location by providing monopoly rents to the premises owner. Thus, payphone providers will have an incentive to increase rates at payphones to be able to provide greater monopoly rents to premises owners. Because the market will not work to keep rates at a reasonable level, the Commission should establish a cost-based compensation amount.

Therefore, Marino\Ware urges the Commission to set the compensation amount at the cost of providing access for subscriber 800 and access code calls which the record shows is no more than $0.11 per call and eliminate the rule providing for variable compensation rates in October 1998.

Sincerely,

Michael C. Kerner
Manager Technical Engineering

cc: Commissioner Quello
Commissioner Chong
Commissioner Ness
William Kennard, General Counsel