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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

March 26, 1998

Ms. Magalie Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

**EX PARTE PRESENTATION**Re: **CC Docket No. 96-128**

Dear Ms. Salas:

On Wednesday, March 25, 1998, Albert Kramer and Robert Aldrich of Dickstein Shapiro Morin & Oshinsky LLP, on behalf of American Public Communications Council ("APCC"), met with Rose Crellin and Craig Stroup regarding the above-referenced matter. During the meeting, we discussed APCC's views on the unresolved issues regarding payphone compensation for the fourth quarter of 1997 for independent payphone providers using "smart" payphones. APCC stressed that payments to independent payphone providers should be based on data from independent payphones, even if this necessitates a true-up based on calling data from a subsequent quarter.

We also discussed the need for the Bureau to clarify carrier obligations regarding calls handled by switch-based resellers. In the Order on Reconsideration in this proceeding, the Commission determined that:

[A] carrier is required to pay compensation and provide per-call tracking for the calls originated by payphones if the carrier maintains its own switching capability, regardless if the switching equipment is owned or leased by the carrier. If a carrier with a switching capability has technical difficulty in tracking calls from origination to termination, it may fulfill its tracking and payment obligations by contracting out this duty to another entity, consistent with the market-based principles that we established in the Report and Order. If a carrier does not maintain its own switching capability, then, as set forth in the Report and Order and consistent with our clarification here, the underlying carrier remains obligated to pay compensation to

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the PSP in lieu of its customer that does not maintain a switching capability.

Order on Reconsideration, FCC 96-439, released November 6, 1996, para. 92.

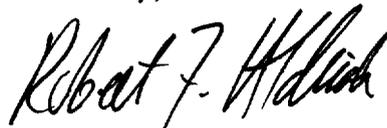
APCC understands that some IXCs providing 800 service have been contacted by 800 service subscribers who identify themselves to the provider IXCs as switched-based resellers. Based on the ruling quoted above, these subscribers are requesting that they not be billed the provider IXC's "payphone surcharge" on the grounds that the provider IXC is not responsible for paying compensation on calls to the subscriber IXC's 800 numbers.

This development poses a significant difficulty for payphone service providers ("PSPs") attempting to collect per-call compensation. In order to identify the carriers receiving calls from a payphone, it is necessary to access information about the local exchange carrier's ("LEC's") routing of calls dialed with specific 800 numbers. Such routing information should identify the carrier identification code ("CIC") associated with the interexchange carrier ("IXC") that is the 800-number service *provider* for the particular 800 number. However, where the *subscriber* to the 800-number dialed from a payphone is a reseller carrier, the 800 number routing information will not identify the subscribing reseller carrier. Thus, PSPs face the prospect of being denied compensation on certain calls by 800 provider carriers, without being able to identify the subscribing reseller carrier that is allegedly assuming responsibility for compensation on the call.

Therefore, APCC urged the Bureau to make clear that, when carriers providing 800 service have determined that they are not required to pay compensation on particular 800-number calls because their subscribers have identified themselves as responsible for paying the compensation, those carriers must provide, on request by the billing PSP, a list of the 800 numbers for which they are not paying compensation and must identify the subscribers to those 800 numbers.

Please contact the undersigned if you have any questions.

Sincerely,



Robert F. Aldrich

RFA/nw

cc: Rose Crellin  
Craig Stroup