

EX PARTE OR LATE FILED

March 31, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

RECEIVED
MAR 31 1998
DOCKET FILE COPY ORIGINAL
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Re: CC Docket No. 96-128

Dear Ms. Salas:

On March 30, 1998, I spoke by telephone with Mr. Craig Stroup and Ms. Rose Crellin, respectively, of the Common Carrier Bureau's Industry Analysis Division and Enforcement Division. Mr. Stroup, on behalf of Ms. Crellin and himself, had requested the comments of the Telecommunications Resellers Association ("TRA") on matters raised by Messrs. Albert Kramer and Robert Aldrich, on behalf of American Public Communications Council ("APCC") in meetings with Mr. Stroup and Ms. Crellin on March 25, 1998. These matters, memorialized in an *ex parte* letter submitted by Mr. Aldrich on March 26, 1998, centered around APCC's speculative concerns that certain switch-based resale providers of interexchange services may attempt to evade per-call payphone compensation obligations by (i) notifying their respective network service providers that they should not be assessed "payphone surcharges," and then (ii) neglecting to compensate payphone service providers ("PSPs") directly for payphone-originated toll free and access code calls transiting their switches. To address this theoretical possibility, APCC has proposed to burden facilities-based providers of wholesale interexchange services with yet another administrative duty -- *i.e.*, the obligation to provide requesting PSPs with a list of toll free numbers for which they are not required to pay compensation, as well as a list of the subscribers to all of those toll free numbers.

I expressed to both Mr. Stroup and Ms. Crellin my surprise that the Commission was contemplating the imposition of yet another layer of reporting and compliance obligations upon switch-based interexchange carriers, which already bear the lion's share of the administrative burden under the Commission's payphone compensation scheme, simply to address the speculative concerns of APCC that some switch-based resale carriers may not fully compensate PSPs. I pointed out that imposing additional regulatory burdens on facilities-based interexchange carriers based solely on the assumption that switch-based resale carriers will blatantly violate validly-enacted Commission rules and regulations is not only contrary to Commission initiatives to eliminate burdensome and unnecessary regulations, but constitutes a significant departure from past Commission practice.

No. of Copies rec'd 022
List A B C D E

1620 I Street, N.W.
Suite 701
Washington, D.C. 20006
Telephone (202) 293-2500
Facsimile (202) 293-2571

MS. MAGALIE ROMAN SALAS

MARCH 31, 1998

PAGE 2

I emphasized that the resale community has always been held to a high standard of proof when seeking relief from the Commission for violations of the Commission's resale and other policies. When resale carriers have complained to the Commission regarding discrimination or resale restrictions, they have always been advised that such claims must be fully documented before remedial action could be taken. Speculation, conjecture and the like were never grounds for Commission action. Accordingly, I remarked that it would be particularly inappropriate for the Commission to take action against resale carriers on the purely theoretical assumption that some switch-based resale carriers will not fully comply with the Commission's per-call payphone compensation directives.

Finally, I advised Mr. Stroup and Ms. Crellin that the "solution" proposed by APCC, if adopted by the Commission, might require network service providers to breach their service contracts with their switch-based resale carrier customers. Among other things, the disclosures sought by APCC could require network service providers to abrogate confidentiality-based contractual obligations. The contemplated "solution" could also result in the disclosure of competitively-sensitive data to entities positioned to exploit that data for unrelated business purposes.

In short, I informed Mr. Stroup and Ms. Crellin that TRA objected to the APCC proposal and urged them to refrain from adopting further layers of regulation until such time as a concrete need for APCC's "solution" had been satisfactorily demonstrated. I strongly suggested that PSPs be told, as resale carriers have repeatedly been advised over the years, that in the event a carrier fails to comply with the Commission's rules, redress should be sought through the Commission's formal complaint processes.

Respectfully submitted,



Charles C. Hunter
General Counsel to the
Telecommunications Resellers Association

cc: Mr. Craig Stroup
Ms. Rose Crellin