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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
RM No. 9273

_____)
In the Matter of)
)
AirTouch Paging)
)
Petition for Rulemaking to Establish)
a Dedicated 8XX Code for Toll-Free)
Calls Placed from Pay Telephones)
_____)

**COMMENTS OF THE
TELECOMMUNICATIONS RESELLERS ASSOCIATION**

The Telecommunications Resellers Association ("TRA"),¹ through undersigned counsel and pursuant to Section 1.405(a) of the Commission's Rules, 47 C.F.R. § 1.405(a), hereby submits the following comments in support of the Petition for Rulemaking ("Petition") filed in the captioned proceeding on April 17, 1998, by AirTouch Paging ("AirTouch"). In its Petition, AirTouch urges the Commission to initiate a rulemaking proceeding to create a new form of toll free service which would require callers who use pay telephones to access certain toll free numbers to pay for usage of the pay telephone, but not for carriage and completion of the call. TRA believes

¹ A national trade association, TRA represents more than 650 entities engaged in, or providing products and services in support of, telecommunications resale. TRA was created, and carries a continuing mandate, to foster and promote telecommunications resale, to support the telecommunications resale industry and to protect and further the interests of entities engaged in the resale of telecommunications services. The overwhelming majority of TRA's resale carrier members provide interexchange telecommunications services, and hence, are required to compensate payphone service providers (either directly or through their underlying network service providers) for payphone-originated toll free and access code calls.

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that the additional toll free service option AirTouch has proposed would alleviate to some measure the financial and administrative burdens associated with the Commission's payphone compensation mechanism² and it thus worthy of consideration. Accordingly, TRA urges the Commission to grant the Petition and to incorporate the AirTouch proposal into its upcoming remand review of current payphone compensation levels.

The administrative and financial burdens the Commission's payphone compensation scheme has imposed on interexchange carriers ("IXC") generally, and smaller IXCs, especially those providing prepaid calling card services, in particular, have proven to be far more dramatic and adverse than the Congress could possibly have contemplated when it enacted Section 276 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act").³ Apart from the inflated levels of compensation mandated by the Commission and the ill-advised linkage of "per-call" payphone compensation to soon-to-be deregulated local coin rates, the Commission has failed to ensure the availability of the payphone-specific coding digits necessary for IXCs to "track" and debit payphone-originated calls on a "real-time" basis. Despite its acknowledgment that in the absence of payphone-specific coding digits, IXCs can neither selectively block, nor debit on a "real-time" basis prepaid calling cards for, payphone-originated toll free and

² Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Report and Order), 11 FCC Rcd. 20541, *recon.* 11 FCC Rcd. 21233(1996), *vacated in part sub nom. Illinois Public Telecommunications Ass'n v. FCC*, 117 F.3d 555, 560, *clarified on rehearing* 123 F.3d 693 (D.C. Cir. 1997), *on remand* 13 FCC Rcd. 1778 (1997), *pet. for recon. & rev. pending, remanded sub nom. MCI Telecommunications Corp. v. FCC*, Case No. 97-1675 (D.C.Cir. May 15, 1998) ("

³ 47 U.S.C. §§ 276; Pub. L. No. 104-104, 110 Stat. 56, § 151 (1996).

access code calls,⁴ the Commission has nonetheless persisted in requiring IXCs to compensate payphone service providers ("PSPs") for payphone-originated calls even when payphone-specific coding digits are not provided.

As TRA has repeatedly stressed to the Commission, its small to mid-sized resale carrier members, particularly those offering prepaid calling card services, are being seriously harmed by the inability to block or debit on a "real-time" basis payphone-originated calls. As TRA has explained, the impact of payphone compensation obligations on small to mid-sized carriers, absent the ability to selectively block payphone-originated calls, tends to be magnified because of their smaller size and relatively limited financial resources, as well as the unique characteristics of their customer bases.⁵ Exacerbating this problem are the unique circumstances facing the roughly 25 percent of TRA's resale carrier members which are currently offering pre-paid calling cards. Absent "real-time" access to payphone-specific coding digits, pre-paid calling card providers have no way to recover amounts paid to compensate PSPs for access code calls placed on their phones using pre-paid calling cards; monthly or quarterly statements are meaningless when cards can be depleted with

⁴ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (Order), 12 FCC Rcd. 16399, ¶ 13 (1997) ("The waiver will, we recognize, require IXCs to pay compensation for certain calls without the ability to block those calls on a real-time basis.").

⁵ The small business customers of TRA's resale carrier members tend to be highly resistant to the imposition of additional charges, particularly large, unanticipated assessments. The experience of TRA's resale carrier members to date in attempting to pass through payphone compensation, paid either directly or to underlying network service providers, has confirmed the intensity of this resistance, as well as the adverse competitive ramifications of attempting to impose large new charges on small commercial accounts. Unfortunately, smaller resale carriers, unlike some of their larger network-based competitors, do not have the traffic volumes over which to spread amounts paid to originate toll free or access code calls from payphones without significantly increasing rates. Nor do smaller carriers have the operating margins within which to absorb such amounts without adversely impacting their financial viability.

a single call. Thus, without payphone-specific coding digits, pre-paid calling card providers have no choice but to absorb amounts paid to compensate PSPs for payphone-originated access code calls and suffer the obvious adverse financial consequences, or to raise rates for all users and suffer the adverse competitive consequences.

The alternative toll free service that Ameritech has proposed would appear to address the above concerns directly; indeed, it might eliminate the need for call blocking. Under the Ameritech proposal, toll free service subscribers, when contracting for service, would be able to decide whether they wished to incur or avoid additional charges associated with the use by callers of payphones to call their toll free numbers. IXCs and toll free service subscribers would understand at the outset the extent of their exposure, avoiding future misunderstandings and misconceptions. Customers who called a toll free number which required a coin deposit in a payphone would be informed of that requirement upon placing the call and be afforded the opportunity to decline to complete the call. In other words, market forces would determine which toll free service options were used by which toll free service subscribers and which types of toll free numbers which customers would call. As succinctly stated by AirTouch, its proposal would "serve Congressional and Commission goals by creating choices for consumers and carriers."⁶

TRA is unable to comment at this time on the technical feasibility of the alternative toll free service proposed by AirTouch. It is noteworthy, however, that AirTouch has represented that "PSP[s] can readily program . . . [their] phones to implement . . . [its] plan."⁷ Moreover, such matters are better addressed in notice and comment rulemaking proceedings in which broad industry

⁶ Petition at 6

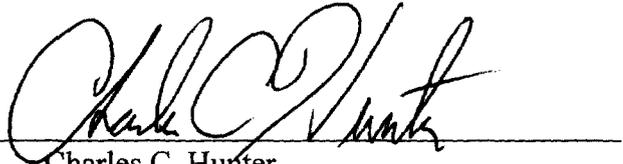
⁷ Id. at 5 - 6.

and public comment can be anticipated.

At the direction of the U.S. Court of Appeals for the District of Columbia Circuit, the Commission will soon be undertaking a review of current payphone compensation levels. While the sole issue remanded by the Court was the level of "per-call" compensation, the Commission could, and TRA believes should, institute a broader inquiry into the mechanics underlying payphone compensation, with an eye toward remedying some of the persistent problems with the current compensation scheme. TRA urges the Commission to identify for consideration in such a wide-ranging inquiry the alternative toll free service offering proposed by Ameritech.

Respectfully submitted,

**TELECOMMUNICATIONS
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June 5, 1998

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CERTIFICATE OF SERVICE

I, Catherine M. Hannan, hereby certify that a true and correct copy of the foregoing
Comments of the Telecommunications Resellers Association has been served by United States
First Class Mail, postage prepaid, to the individuals listed below, this 5th day of June, 1998:

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