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March 5, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

Re: Ex Parte Presentation
WT Docket # 97-207 (Calling Party Pays)

Dear Ms. Salas:

On Wednesday, March 4, 1998, Brian Fontes, Senior Vice President, Policy and Administration and Randall Coleman, Vice President for Regulatory Policy and Law, of the Cellular Telecommunications Industry Association ("CTIA"), met with Peter Tenhula, Legal Advisor, Commissioner Powell's Office and David Siddall, Legal Advisor, Commissioner Ness's Office concerning the above-referenced proceeding. Mr. Fontes and Mr. Coleman distributed the enclosed attachments during the meeting. In addition, the attached paper, entitled, "Update: Interest In and Advantages of Calling Party Pays", is being provided for Mr. Tenhula and Mr. Siddall on March 5, 1998.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and its attachments are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,

Cleveland Lawrence III

Cleveland Lawrence III

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A CTIA SERVICE REPORT

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THE WHO, WHAT AND WHY of "Calling Party Pays"

July 4, 1997

CTIA

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Executive Summary

The following Service Report provides a review of the background of Calling Party Pays (CPP), including details of international experience and domestic offerings; a review of regulatory policy issues; and a review of implementation issues.

1. International and Domestic Experience

CPP is the model for billing most telecommunications services around the world and in the United States. But in the U.S., the general rule for wireless services is that the called wireless subscriber pays for the call. On the basis of international experience, it is believed that CPP fosters:

- greater cost control by wireless consumers
- greater acceptance of wireless services
- higher wireless usage
- more evenly balanced traffic between wireless and wired networks

The U.S. offerings have generally been limited in geographic scope because of the U.S.'s multicarrier and multinetwork environment. Due to unbillable revenue "leakage," practically every CPP offering in the U.S. currently cannot apply to calls originating from:

- coin phones
- hotel or motel phones
- other wireless phones
- other telephone companies' networks
- interexchange carriers' networks or
- calling card or credit card-billed calls

State regulators in the U.S. repeatedly have focused on the need to provide some form of notice to calling parties that the calls which they are placing differ from traditional flat rated calls, or traditional (called-party pays) cellular calls. There are various means o providing such calling party notice, including 1+ dialing, and distinct NXX codes set asid by the carriers to identify CPP subscribers; distinct beep tones; or recorded intercep messages. Not all LEC switches are capable of providing recorded intercepts.

2. Regulatory and Technical Issues

In connection with regulatory and technical issues, CTIA has identified si components of CPP service, all of which are either already available or achievable. The fir two are remedies for "revenue leakage." As noted below, access to a caller's phone numbe in the form of Automatic Number Identification (ANI) and the service associated with th number (identified in the LEC Line Identification Database (LIDB)) already are available i existing regulatory authority and industry practice. Additional measures which shoul contribute to reducing leakage involve deploying SS7 and refining industry standards f

intercarrier data exchange.[1] To the extent that additional regulatory action is required, such action appears to be limited to issues of state regulatory jurisdiction and service area definition.

3. Implementation Issues

The White Paper also provides a review of the technical issues and key decisions which must be addressed in developing a service description and implementation plan for CPP service, including:

- Location of CPP interception in the path of call setup.
- Notification to the caller of CPP charges.
- Minimization and handling of leakage.
- Flexibility in per-minute rates, and the ability to reverse charges.
- Local and toll CPP calls.
- Allocating roaming charges.
- Billing the caller.
- How billed revenue is shared with the wireless carrier.
- Interactions with Number Portability and Local Exchange Competition.[2]

[1] *See* Section 4.0, Regulatory and Technical Aspects to CPP, *infra*, at 13-14.
[2] *See* Sections 4.05-4.051, Technical Issues and Implementation Plan, *infra*, at 21-25.

Section 1.0 Background

On April 15, 1997, CTIA staff began preparing a Service Report examining the implications of Calling Party Pays ("CPP"), and such measures as might be required for its implementation as a wireless service option. The following Report provides a review of the operational and policy background of CPP, factors which have influenced and may continue to influence its implementation, and detailed requirements for a service description and implementation plan.

Section 1.01 What is "Calling Party Pays"?

There is no single, standard technical definition for CPP. At its simplest and most direct, it is the model for practically every traditional form of telecommunications service billing: the party who places a call, pays for the call.

The only exceptions to this rule have been those services deliberately designed to be "collect calls" and wireless services -- cellular and now PCS. The cellular exception appears to have been an historical accident, attributable to the technical conditions applying to network interconnection when cellular-local exchange carrier (LEC) traffic exchanges first occurred. In the early 1980s, cellular companies and LECs interconnected via "Type 1" interconnection arrangements, in which the cellular companies were treated as end-users by the LEC networks. That technical model changed over time, as "Type 2" interconnection was implemented, recognizing cellular networks as co-carrier networks. The result of the original interconnection model, however, was that the system for call billing placed the burden of paying for calls upon the called cellular subscriber, instead of upon the calling party.

In fact, the "wireless subscriber pays" (or "called party pays") model is not the only feasible option. Over the past decade, CPP has been implemented as an option in a number of markets in the U.S. In many other countries, CPP is *the* standard billing practice.

Section 1.02 U.S. Market Experience

CPP has been implemented in markets served by the following LECs: Ameritech, Bell Atlantic, Cincinnati Bell, GTE, and U S WEST Communications (USWC). It has been offered to wireless subscribers by both affiliated and unaffiliated cellular companies (*e.g.*, it was offered to wireless subscribers by Cellular One in Cincinnati, and by U S WEST Cellular in various western states).[1]

[1]References are made to U S WEST Cellular and U S WEST NewVector since those names applied to the wireless service provider under that name in the timeframe and in the materials considered by this report. References primarily are made herein to the LEC operator U S WEST Communications, rather than USWC, to clearly distinguish the LEC and cellular operations of U S WEST.

CPP has been implemented as an *option*, supported by either traditional LEC network infrastructure or Advanced Intelligent Network facilities. Reportedly, in the early 1980s, *mandatory* CPP was proposed for implementation in the state of Ohio, but was rejected by the Public Utilities Commission of Ohio (PUCO). Ultimately CPP was implemented in Ohio as an option for consumers.

Section 1.021 The "Advanced Intelligent Network" Version of CPP

Bell Atlantic's offering of CPP relies upon Advanced Intelligent Network (AIN) technology. As Bell Atlantic explains it:

> For all land-to-mobile calls made to a CPP-provisioned number, AIN instructs the switch to access Bell Atlantic's Integrated Service Control Point (ISCP) for further instructions. An announcement will instruct the caller that if they wish to complete the call, they, rather than the subscriber, will be charged for airtime. Or, the incoming call will be matched against a variety of call-screening options established by the subscriber. Based on these screening options the caller may or may not be asked to pay for the call. When callers receive the announcement and choose to continue the call, airtime charges will automatically appear on a separate page of their Bell Atlantic local phone bill.[2]

John M. Campanola, Director of Wireless Product Management for Bell Atlantic Carrier Services, observed: "All telecommunications consumers . . . will now be able to reap the benefits of personal communications as more and more people make themselves available to receive incoming calls and messages[.]"[3]

As noted in Section 4.0 "Regulatory and Technical Aspects of CPP," below, CTIA has identified six components of CPP service which are already available under existing regulatory authority and industry practice, including Automatic Number Identification (ANI), Line Identification Database (LIDB) access, billing and collection, and SS7 deployment.[4]

But *some* operational issues and policy questions must be resolved in order to establish the widespread availability of CPP as an option for subscribers. As Campanola observed: "Perhaps the greatest challenge in moving these services forward will be cleaning up some operational and policy issues that are now barriers. These services are not uniform. Nor are they available nationwide. Not everyone has the technology to support AIN-based services, and then billing is another concern." As Campanola explained: "Because the end-user pays, with charges tabulated on his local service phone bill, "leakage" is an issue. Bell Atlantic has used AIN to minimize these concerns. On-

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[2] *See* http://www-Bell-Atl.com/carrier/html/cs05wlcp.htm.
[3] John M. Campanola, "Who Pays for the Call?" *NEWAVES Magazine*, September 1996.
[4] *See infra* at 13.

going enhancements of our billing system and new business relationships with other regional phone companies, new local service providers, and others are highly beneficial. However, still to be resolved are third party, operator handle[d calls], and pay phone billing issues."[5]

Section 4.05, Technical Issues, below, provides a more detailed overview of operational issues concerning CPP implementation.[6]

Bell Atlantic Carrier Services' draft *Calling Party Pays Service Overview*, dated June 1, 1996, states that "CPP is an IntraLATA service that requires Type 2 Interconnections and a dedicated NXX code. Cellular/PCS carriers who subscribe to CPP service will maintain three (3) trunk groups from the access tandem to their MSC dedicated to CPP service."[7]

The Bell Atlantic Service Overview indicates that:

> Currently, [Bell Atlantic] has the ability to complete calls from the following sources, however, airtime charges may not be billed to the caller. Based on the cellular/PCS carrier's requirements, calls from these sources can be blocked, delivered to the CPP subscriber or delivered to the subscriber's voice mailbox.

Coin phones	Hotel lines
Operators	Motel lines
Calling cards	Prisons
COCOT lines	WATS lines
Hospital lines	Independent Telcos
Cellular phones	Interexchange Carriers

> **Note**: BA is currently developing processes that will enable Bell Atlantic to:
>
> - collect CPP airtime charges for coin, operator handled, calling card and COCOT calls; and
> - bill and collect CPP airtime charges when InterLATA/Interstate CPP calls originate in BA territory.[8]

As an AIN-based service in its traditional telephone company region, Bell Atlantic's CPP service has a range of options which may be activated by the subscriber, such as routing

[5] *Id.*
[6] *Infra* at 21-25.
[7] Bell Atlantic Carrier Services, *Calling Party Pays (CPP) Service Overview*, (draft) dated June 1, 1996, at 4.
[8] *Id.* at 7.

to the subscriber, or the subscriber's voice mailbox, and the Service Switching Point can be instructed to play announcements advising callers of additional charges.[9]

It has been noted, consistent with the exclusions cited above, that "The inability to bill for some long distance calls, and the complex jumble of exchanges necessary to pass some calls, is one reason Bell Atlantic NYNEX Mobile only offers the service in Phoenix, Albuquerque, N.M., and El Paso, Texas."[10] "'Until that leakage problem is solved, we won't expand the service further,' said spokesman Jim Gerace."[11]

Section 1.022 The "Traditional" Network Version of CPP

According to Bell Communications Research (BellCore), U S WEST Communications has offered a form of CPP service for about nine years. This traditional version differs from the AIN network-based version, which in effect means that the U S WEST Communications' version of CPP does not have all of the features and capabilities of an AIN-based version.

U S WEST Cellular is reported to have launched CPP in Arizona, Colorado, Idaho, Nebraska (Omaha/Council Bluffs), New Mexico, Utah, and Washington state. In fact, U S WEST Communications' (LEC) *Calling Party Pays Comprehensive Service Definition* states that "CPP is currently implemented in Arizona, New Mexico, Idaho, Utah, Colorado, and Nebraska. CPP is available in all other USWC states excluding Oregon where a tariff cannot be filed until we have a signed customer contract and Minnesota where a CPP blocking product must be developed prior to tariff filing."[12]

As *RCR* noted:

> Caller Pays only works in local calling areas at this time because the carrier doesn't have a way to bill across long distance. . . . Although those boundaries are expected to blur in the future, at this time U S WEST only can bill for cellular long distance calls if they are intraLATA and U S WEST Communications Inc. carries the call.
>
> Customers ordering the service will receive a special phone number; current cellular users must have their phone reprogrammed. Callers must dial 1 plus the area code before the cellular phone number. In the Omaha-Council Bluffs area, the 650 prefix has been reserved exclusively for U S WEST Cellular Caller Pays customers.
>
> Cost for the caller is 35 cents per minute peak time and 24 cents per minute off peak.

---

[9] *Id.* at 6.

[10] Linda Kay Sakelaris, "U S WEST Cellular Spreads its Calling Party Pays Service Plan," *Radio Communications Report*, April 29, 1996 (including observations regarding BANM's southwestern operations).

[11] *Id.*

[12] U S WEST Communications, *Calling Party Pays Comprehensive Service Definition*, at 3.

In most cases, the caller will be using a landline phone, so the charges will appear on the landline bill.

'(Dialing) a 1 before the area code tells the caller there is a toll associated with the call. In some markets it's very popular, and in others it's just catching on,' [according to U S WEST spokeswoman Wendy] Carver-Herbert.[13]

U S WEST Communications' *Calling Party Pays Comprehensive Service Definition* notes that the option does not apply to calls originating from or billed to:

Coin Phones
Hotel/Motel
Other carriers, including independent telephone companies
Interexchange/international carriers
Res/Bus third number and calling card for other than regional USWC #'s[14]

The U S WEST Communications definition also notes that "The CPP call must originate from a USWC 'landline' non-wireless phone and terminate at a wireless phone with a CPP prefix. The CPP prefix is obtained from USWC by the wireless carrier."[15]

It may be noteworthy that GTE's Hawaiian offering of Calling Party Pays originated as a traditional network version, requiring an initial number change and 1+ dialing, but has transitioned to an AIN-based version.[16]

The restrictions noted above all derived from the experience of LECs and wireless service providers with leakage in the 1980s. Reportedly, during the 1980s the revenue losses attributable to the inability of the wireless provider to obtain payment for calls intended to be billed to an originating party amounted to 25 percent or more. Leakage problems originally stemmed not only from the inability of the LECs and wireless providers to reconcile usage records, but also from active attacks that exploited the LECs' inability to bill back to certain interexchange carriers. Callers seeking to avoid payment would establish a call diverter in a location outside of the LEC's calling area. A call to the call diverter would result in an immediate call-back to the caller's number, followed by provision of a second dial tone. The caller would then overdial the CPP mobile number, creating a three-way call between the caller, the call diverter and the called mobile. Since the leg between the call diverter and the called mobile originated from an IXC to which the LEC could not bill, the call would be leakage. The toll charges thus incurred must obviously be less than the wireless airtime charges that are avoided for this scheme to be economical.

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[13]Linda Kay Sakelaris, "U S WEST Cellular Spreads its Calling Party Pays Service Plan," *Radio Communications Report*, April 29, 1996.
[14]U S WEST Communications, *Calling Party Pays Comprehensive Service Definition*, at 3.
[15]*Id.*
[16]Manuel Masada, GTE Telecommunications Service Inc., April 3, 1997.

Such exploitation (and the attendant leakage) has been largely eliminated by two changes in the traditional CPP arrangements. First, the service is now restricted to local calls within the LEC's local calling area. Second, the wireless service provider has modified its agreement with the CPP subscriber to bill all unbillable calls to the CPP customer. Even with this modification, unreconcilable leakage persists because LECs and wireless service providers seldom coordinate their settlement dates. Thus, an accounting match of billed minutes of use with consumed minutes of use is impossible.

Section 2.0 What Benefits Derive from CPP

Internationally, CPP has been implemented throughout Europe (in such countries as the Czech Republic, Germany, Hungary, Italy, Portugal and the U.K.). It has been implemented in Israel, and throughout much of Latin America, including Colombia and Venezuela.[17] The experience of these countries suggests that CPP provides benefits to consumers, traditional wireline service providers, and wireless service providers. The benefits include:

1. more consumer control over their telecommunications costs;
2. higher usage by consumers (traffic exchanged between wired and wireless networks is more evenly balanced, and wireless minutes of use are as much as double U.S. traffic levels[18]);
3. broader adoption of wireless services; and
4. new revenue streams for both wireline and wireless service providers.

Section 2.01 How Consumers Benefit from CPP

Internationally, where CPP is the standard, no additional charge is levied on the called party for the CPP service, except for international calls (in which the wireless user roams) in which case the calling party pays traditional landline rates up the border, and the called party pays for the international transport and roaming charges associated with the call.[19] In situations other than the mandatory CPP model, there *can be* charges associated with CPP beyond those paid by the calling party. For example, subscribers to the U S WEST Cellular CPP service pay $3.95 per month for the service.[20] (Other

[17]"Representatives Detail Progress of Cellular Industry in Latin America," *Mobile Phone News*, August 21, 1995 ("Calling party pays is quickly becoming a common feature of Latin cellular markets.").

[18]Salomon Brothers Inc., "Olivetti (FOLIV)." *Company Report*, November 14, 1995 (noting sharply higher usage, and LEC-wireless traffic balances approaching 50-50). *See also* Linda Barrabee, "Latin America Looks Up to Colombia." *Mobile Communications International*, March 1996 (noting that in Colombia CPP has stimulated monthly per subscriber usage levels to roughly 400 minutes per month, double the average of non-CPP countries in Latin America).

[19]Staffan Holmer, Ericsson, formerly with Telia Sweden, May 12, 1997.

[20]"U S WEST Cellular Offers Caller Pays Service," *Mobile Phone News*, April 22, 1996. This is not limited to the U.S. In November 1996, Bell Mobility of Canada introduced a CPP option for its cellular customers. For $2.95 a month, customers receive an additional "600" number, callers to which hear a recorded message informing them of a $.65 per minute charge for calls completed to that number. *See* "Bell Mobility Introduces Calling Party Pays," *Mobile Phone News*, November 25, 1996.

wireless service providers report similar monthly access fees for CPP service. These charges not only cover certain administrative costs associated with provision of CPP, they also ration the limited resource of NXX codes when used to identify CPP.) But the advantages for consumers of CPP are clear. It permits the wireless subscribers to control their costs, while also making themselves available to be called.

As Lisa Bowersock of U S WEST Cellular explained: "the program is aimed at businesses and individuals who want to reduce unsolicited calls to their cell phones. . . . [and] is most popular with business customers who use a cellular phone in the field as their primary communications tool."[21] As Bowersock noted, "'We've learned that Caller Pays is attractive to those customers who want to manage the cost of their incoming calls.'"

Other wireless carriers, like PrimeCo and American Personal Communications, have adopted a strategy of providing the first minute of in-bound calls at no charge. PrimeCo's Midwest region President, Bob Johnson, noted: "The problem here is that people are reluctant to give out their wireless phone number when they know that they may get unwanted calls they'll have to pay for. They want to retain control. . . . Our policy is that the first minute of every incoming call is free. That way you can get rid of unwanted calls without having to pay for them. So you can give out your number without worrying about it."[22] This model is also being adopted by some cellular companies in connection with their digital offerings.[23]

Section 2.02 Consumer Options in CPP

Together, service providers and infrastructure manufacturers have made possible a series of options for subscribers and calling parties. Thus, the manufacturer AG Communications advertises that its "INgage™ Calling Party Pays System" subscribers can "simply program[] a list of phone numbers from which he or she will accept air-time charges. Calls from phones not on the list are screened and completed only if the caller accepts charges. The subscriber also has the option of providing a CPP-override Personal Identification Number (PIN) to individuals from whom he or she will accept air-time charges."[24]

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[21]Cynthia Flash, "Option Reverses Charges for Calls to Cell Phones," *The News Tribune*, December 30, 1995, paraphrasing Bowersock.

[22]Jon Van and Patricia Tennison, "Chicago Wired for Wireless Technology; Competition Grows; Cellular Firms Add Options, Cut Costs," *Chicago Tribune*, December 2, 1996.

[23]*See e.g.*, the digital offerings of AirTouch Cellular, Bell Atlantic NYNEX Mobile, Cellular One - Nebraska, and L.A. Cellular. *See* "Give your secretary and yourself a break with Powerband Digital Service: technology eases administrative burdens on secretaries," *Business Wire*, April 22, 1997 (regarding AirTouch Cellular's Powerband offering); "Bell Atlantic Releases TalkAlong Express," *Telecomworldwire*, March 7, 1997; "Cellular One Has Free First Incoming Minute," *Business Wire*, March 18, 1997, (regarding Cellular One - Nebraska offering); and "Users Give Carriers Positive Feedback," *Radio Comm. Report*, March 17, 1997, at 20 (regarding L.A. Cellular Telephone Co.'s offering).

[24]*See* http://www.agcs.com/ingage/cpp.htm.

Thus, calling parties may (1) elect to incur the CPP charges; (2) if authorized, place the call without incurring such charges; or (3) elect not to complete the call and thereby not incur such charges. Bell Atlantic's offering of CPP functionalities to wireless companies specifically includes the option of "allow[ing] callers to punch in a PIN code called a 'VIP number' which tells the application to pass the call through without billing the caller. A similar VIP table allows the user to specify up to six telephone numbers for which the called party will pay for airtime. Finally the entire service can be toggled on or off."[25] "Callers also can choose the option of leaving a message in a voice mail box."[26]

Section 2.03 Carrier/Provider Benefits of CPP

The benefits attributable to the deployment of CPP cover a range from ease of marketing to revenue and traffic increases. Thus, for example, it has been observed that "carriers . . . find [CPP] an easier sell than the 'subscriber pays' model. Encouraging cellular subscribership is easier if the differences between cellular and wireline services are minimized. With basic wireline service, whoever places the call pays for the call."[27] However, there is evidence that some business subscribers prefer the traditional U.S. model, in order to encourage customers or would-be customers to call them. This is observable both in the U.S. and in some European countries.[28]

Section 2.031 International Evidence of Traffic Stimulation/Balance

The international experience with Calling Party Pays suggests that there will be a stimulative effect from the offering. In the Czech Republic, the cellular company EuroTel introduced CPP effective April 1, 1996. In introducing the service, EuroTel observed that:

> Our market research with prospects as well as our customer satisfaction research has indicated that the introduction of this billing system option will be greatly appreciated by customers and will directly impact the prospect's decision to buy mobile telephone service. We have been working on the modification of our billing system and negotiating the details of this billing arrangement with SPT Telecom that are required to

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[25] "Bell Atlantic Rolls Out AIN-Based Calling Party Pays Service for Wireless Carriers," *Advanced Intelligent Network News*, November 15, 1995.

[26] Michael Dresser, "Getting the caller to pay; Cellular phones: New technology aims to reverse the charges," *The Baltimore Sun*, November 4, 1995.

[27] Hank Hogan, "Calling Party Pays Raises Cellular Use, Say Carriers," *RCR*, February 5, 1996.

[28] *See* Bell Communications Research, *Calling Party Pays Market Research Study*, LP-306-MR, Issue 1, December 1996, at 36; *see also* "Domestic Green Number and Blue Number Services," at http://www.matav.hu/service/in_e.html (regarding the benefits of called-party billing Green Number service in building customer and would-be customer relationships) and "Inland Blue and Green Number," at http://www.westel900.hu/szolgaltatasok/lista/kekszamzoldszam_e.html (regarding Westel 900 GSM Mobile Telecommunication Co.'s offering of calling and called party pays options to subscribers in Hungary).

make the calling party pay system work since early last year. Our desire to give our customers a choice of billing options has made this project more difficult than it would have been if we had just moved everyone to the new Calling Party Pays system without giving them the choice of keeping their current billing arrangements.[29]

In Israel, the CellCom Israel company won the early accolade of being the fastest-growing mobile communications company in the world. In the 18 months after it turned-up service (in December 1994) it grew to more than 250,000 subscribers. In part, that growth was attributed to the fact that CPP was the rule -- and people willingly distributed their cellular phone number, "confident that they [would] not be paying for nuisance calls."[30] (As Senator Conrad Burns, Chairman of the Senate Subcommittee on Communications of the Senate Committee on Commerce, Science and Transportation, observed in hearings held on March 19th, 1996, "everybody" in Israel has wireless phones, and the reason is that wireless subscribers in that country do not pay for incoming calls.)

This conclusion is sustained by the experience of Pele-phone Communications Ltd., the competing cellular provider in Israel. Pele-phone operated on the U.S., "wireless subscriber pays," model prior to 1994, at which point monthly MOUs averaged 450 and 75 percent of the traffic was out-bound. In mid-1994, Pele-phone implemented CPP, with the result that average monthly traffic increased to 500 MOUs (an 11 percent increase), and traffic essentially balanced between incoming and outgoing calls.[31]

Similar accounts exist for Italy, Brazil and other countries, where usage is significantly higher than in the U.S., and where the traffic is more balanced than it has traditionally been in the U.S. (closer to 50-50 than to 80-20, in terms of traffic originating on wireless versus wired networks). However, the extent to which the stimulation is attributable to CPP, or to other factors (such as lower per minute rates, or the benefits which a wireless network provides in the

Country Using CPP	Monthly Usage Levels	Traffic Balance
Lebanon	760 MOUs	NA
Israel	500-550 MOUs	50-50
Sweden	400 MOUs	50-50
Italy	300-350 MOUs	50-50
United Kingdom	250 MOUs	60-40
Germany	150 MOUs	NA

Sources: A.D. Little, Ericsson, Pele-phone

[29] "EUROTEL ANNOUNCES A 30% DROP IN MONTHLY MOBILE TELEPHONE BILLS! EUROTEL INTRODUCES CALLING PARTY PAYS FOR MOBILE TELEPHONES IN CZECH REPUBLIC ON 1 APRIL," March 13, 1996 EuroTel News Release.

[30] Ruth Schuster, "You Say Hello And I Say Allo," *Nortel Navigator Magazine*, *http*://www.nortel.com:80/cool/navigator/navigate296/story2.html.

[31] Avshalom Rov, Pele-phone Communications Ltd., April 27, 1997.

absence of a ubiquitous and up-to-date wired network) is uncertain in a number of these countries, which have operated under a CPP model from the start of service.[32]

As the table indicates, in Sweden, average usage is approximately 400 MOUs monthly, and traffic is roughly balanced under the CPP regime. It has been reported that in the early 1980s, the Swedish operator Comvik attempted to implement the U.S. "wireless subscriber pays" model, with the result that subscribers kept their mobile units turned-off and usage plunged. Under the CPP model, subscribers keep their units turned-on, and available to receive calls.[33]

It is notable that in many of these countries the market is relatively unitary, and the wireless provider(s) can either deal with a single wireline provider (or PTT, facilitating billing) or actually operate a wireless system capable of delivering calls end-to-end without resort to intermediary carriers.[34]

This can be contrasted with the U.S. experience, as BellCore noted:

> To be really successful, the same [CPP] service needs to be available across the U.S., across the Cellular Service Provider's geography, and across a subscriber's geography. Of the few [CPP] services being experimented with today, none are ubiquitous; that is, calls originating with one LEC are blocked by the next LEC. Currently, neither a consistent [CPP] service definition nor a consistent agreement defining how LECs will work together to deploy [CPP] exists.
>
> To offer the most successful service with the greatest revenue potential for [wireless service providers] and LECs and the greatest satisfaction for subscribers, [wireless service providers] need to be able to offer the consistency that only a ubiquitous service delivers.[35]

There *is* a notable similarity with respect to geography between the U.S. case and the European case. In the U.S., CPP appears to be available only as an intraLATA service, and not effective between different LECs' service areas. In other words, a CPP call can originate on a given LEC's network, but cannot transit to another LEC's network and thence to a CMRS subscriber. In Europe, in spite of the movement towards European integration, CPP governs service *within* specific nations, but does not apply

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[32]Malcolm Ross, Arthur D. Little, April 16, 1997.

[33]Staffan Holmer, Ericsson, May 12, 1997.

[34]*See e.g., Amendment No. 4 to Form F-4, Registration Statement Under the Securities Act of 1933 for Occidente & Caribe Celular S.A. (Western & Caribbean Cellular Inc.)* EdgarPlus Form-Type F-4A00, filed November 18, 1996 (noting that in the Western Region of Columbia, cellular systems have "the ability to deliver domestic long distance calls without routing such calls through a long distance carrier").

[35]Letter from James H. Hemphill, Director Intelligent Network Service Design & Development, Bell Communications Research, to Eric Hill, Assistant Vice President for Intercarrier Operations, CTIA, November 6, 1996.

internationally. Thus, a call may be billed under a CPP model within Holland, but a call from Holland to Germany is not billed as CPP.

Section 2.032 U.S. Expectations of Revenue and Traffic Stimulation

Cellular Business magazine has concluded that CPP has a "strong potential for increasing overall wireless usage."[36] *Cellular Business* observed that John Campanola of Bell Atlantic "said CPP will put wireless users more at ease to give out and publish their mobile phone numbers, without the fear of uncontrollable charges that are associated today with incoming calls. Despite thoughts to the contrary, carriers' revenues will continue to grow with CPP." *Cellular Business* quoted Campanola to the effect that:

> 'In fact, the cellular users' charges would go down,' he said. 'But the revenue going into the cellular carrier would not be impacted at all and might even be increased. This is simply a way for consumers to control the way they spend their money.'
>
> Campanola said that technological barriers to implementing CPP now are coming down in the wireless arena.
>
> 'Until now, the technology has not quite been there,' Campanola said. 'You have a lot of lost calls because you can't identify everyone when they call in to you. Therefore, who do you charge?'
>
> He said that CPP should begin to be initiated in U.S. markets soon as an option to customers who want it.[37]

There is a scarcity of hard data regarding the stimulative effect of CPP in the U.S. Practically every study of which this author is aware is based upon survey data regarding popular attitudes toward and probable demand for CPP. Thus, for example, the Giga Information Group has conducted a survey which has found that CPP is "the most sought-after new feature among current cellular subscribers." An October 1996 *Wireless World* article reported that "65% of all cellular customers indicate that they would definitely or probably be interested in calling party pays."[38] The Yankee Group has also found that "78 percent of users say they would encourage people to call them if they didn't have to pay to receive the call."[39]

BellCore has conducted market research into both cellular CPP and Paging Party Pays, and considers the overall "Initiating Party Pays" market to be sizable.[40] It has noted that "many cellular industry experts project the CPP market may be as large as the

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[36]Shawn Steward, "The enigma of the killer app," *Cellular Business*, July 1996.

[37]*Id.* This rationale was repeated by Don Grise, BellCore, May 20, 1997.

[38]"Software: Behind the Scenes; Personal Communications Service providers & software developers are working together to offer features," *Wireless World*, October 1996 (citing David Kerr, Giga Information Group).

[39]"Enhanced Services Offer to Boost PCS Network Usage," *PCS Week*, November 15, 1995.

[40]*See e.g.*, Bell Communications Research, *Calling Party Pays Market Research Study*, *op cit.*

traditional cellular market."[41] The BellCore research also indicates that subscribers to CPP average more and somewhat longer incoming *and outgoing* calls than conventional cellular subscribers.[42] However, BellCore is guarded in projecting stimulation on the basis of this market research inasmuch as the actual CPP subscribers do not perceive themselves as receiving or placing more calls than they previously experienced prior to subscribing to CPP. The report does not compare any before-and-after data to validate this perception.[43]

Anecdotal evidence has been advanced that, at least in some U.S. markets, the expected consumer response has materialized and traffic stimulated. Thus, high consumer acceptance has been reported in Arizona, and it has been stated that traffic assumptions seem to be borne out in Ohio. In mature CPP markets, penetration of the CPP feature is about 50%, with the marginal take-rate about 30%. The declining take-rate of this service may be due to the lack of promotion -- carriers report that CPP is available if customers ask for it, but otherwise do not strongly promote it.

Section 3.0 Manufacturer, Carrier, Service Provider Support for CPP

Manufacturers offering technologies supporting CPP include Nortel, which provided the systems used by CellCom Israel and the Colombian wireless service providers, and AG Communication Systems (jointly owned by Lucent Technologies and GTE).[44] Motorola Inc. has also announced the availability of prepaid cellular and CPP applications in its multi-application Service Node platform.[45]

Local exchange carriers including Ameritech, Bell Atlantic, Cincinnati Bell, GTE, and U S WEST Communications, have offered to support CPP applications for wireless service providers. In fact, GTE supports CPP in its Hawaiian LEC market, Ameritech supports it in Illinois, and U S WEST supports it across a number of its LEC markets.

Billing Service Providers, such as CIBERNET Corporation and GTE Telecommunications Services Inc., as well as BellCore, have worked with LECs to determine the progress of the industry (LECs, wireless providers, and billing vendors) in advancing the development of CPP services. Via the Billing Issues Group of BellCore's Wireless Interconnection Forum, the Interindustry Standard for Data Exchange Forum,

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[41]Bell Communications Research, "Calling Party Pays Service Can Double the Cellular Business Opportunity," December 9, 1996.

[42]Bell Communications Research, *Calling Party Pays Market Research Study*, at 28-29 (CPP subscribers averaged about 184 MOUs monthly versus 91 MOUs for traditional cellular subscribers, combining both inbound and outgoing calls. Inbound CPP calls averaged 42.9 MOUs versus 25.5 MOUs for traditional cellular inbound calls).

[43]*Id.* at 77.

[44]*See e.g.*, Clarence Chandran, "Cellular Communications in Colombia," *Telesis*, October 1995.

[45]"Motorola to Unveil Prepaid Platform, SBMS Continues to roll out service," *Mobile Phone News*, September 2, 1996.

and other bodies, such companies have worked to facilitate the exchange of information to make CPP broadly feasible. Such efforts have been focused on devising a method of exchanging billing information between the serving wireless service provider and the billing carrier (typically a LEC). This would require a translation or conversion protocol to match wireless industry call record formats with LEC formats, or the CIBER and EMI (Exchange Message Interface) records, respectively. CIBERNET, a wholly-owned subsidiary of CTIA, has the responsibility for the maintenance of the CIBER record standard and BellCore maintains the EMI standards. The two standards share certain similarities. Both EMI and CIBER records are exchanged in sequenced batches, subject to various edits and controls, and both systems rely on clearinghouses for settlement and record distribution among their various participants. Such developmental efforts have been in abeyance, however, for about the last year. It has recently been reported that GTE TSI is now primarily supporting GTE's own CPP service package, rather than marketing its services to other would-be providers of CPP services.

Additional third-party vendors proposing to support CPP include Geophonic/Price Waterhouse, who propose operating an independent gateway platform, relying upon 800 numbers and billing all CPP calls to either credit or calling cards.[46] The Geophonic/Price Waterhouse proposal solves the issue of leakage, however it may be cumbersome in practice.

Section 4.0 Regulatory and Technical Aspects to CPP

CTIA has identified six components of CPP service, all of which are either already available or achievable. The first two are remedies for "revenue leakage." As noted below, access to a caller's phone number in the form of ANI and the service associated with that number (identified in the LEC LIDB database) already are available in existing regulatory authority and industry practice. Additional measures which should contribute to reducing leakage involve deploying SS7 and refining industry standards for intercarrier data exchange. The deployment of SS7 and associated data links are effectively mandated for the provision of number portability, and to assist in fraud management and seamless roaming. Moreover, the provision of ANI to customers is being offered to CMRS customers as a competitive service offering. Billing the calling customer is also a key element to CPP.

Automatic Number Identification ("ANI"): The FCC's rules already require each LEC to provide ANI as an unbundled element; therefore, no regulatory action is required.

Line Identification Database ("LIDB"): The FCC's rules already require each LEC to provide LIDB access, therefore, no regulatory action is required.

[46]Geophonic/Price Waterhouse, *New CPP Gateway Architecture, Summary Presentation to CTIA*, May 9, 1997.

Billing and Collection: In 1986, the FCC detariffed LEC billing and collection services, but in a separate "Billing Name and Address" proceeding required LECs to provide nondiscriminatory access to LEC customer billing and call screening information. These requirements were codified in Section 251(c)(3) of the Communications Act pursuant to the Telecommunications Act of 1996, and broadened to obligate incumbent LECs to provide this information to all requesting carriers. A "building block" approach to assembling the elements needed for CPP service, relying upon these precedents, should ensure that establishing the predicates for CPP will not require a new rulemaking proceeding.[47] Billing for CPP can be managed either by paying the LEC for billing and collection services or by using an alternative to LEC billing service. Billing arrangements can be reached through negotiations patterned on the IXC-LEC model. Thus, no regulatory action is necessary to ensure billing and collection are performed.

Section 4.01 The Regulatory "Speedbumps" to CPP

Nonetheless, the experience of carriers in the marketplace proves that regulatory "speedbumps" have slowed or complicated the offering of CPP to consumers.

Section 4.02 Consumer Awareness and Notification

The introduction of CPP in Washington state was delayed for many years by state regulators who were "concerned with how the public would keep track of it," and deal with it, according to Pat Dutton, the consumer affairs manager of the Washington Utilities and Transportation Commission (WUTC).[48] Dutton specifically questioned the adequacy of the notice and consumer awareness of the nature and extent of the charges for placing calls to subscribers of CPP service.

In Washington state U S WEST Cellular notified its customers via bill inserts, and advertised the service prior to its effective date. Such bill inserts were also proposed for use in Montana, where a one-year CPP trial was approved by the Montana Public Service Commission in late 1995. That trial was authorized to run through October 31, 1996.[49] However, U S WEST Communications' personnel have indicated that ultimately the product was not offered in Montana.

The WUTC has also placed information regarding CPP on its website. The website notes that the WUTC staff investigated the issue of providing recorded intercepts to inform callers of charges associated with such calls ("branding"), but that "USWC

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[47] *First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, at 15633, 15660-61, 15741-42, and 15763-64 (1996), *appeal pending sub nom.* Iowa Utilities Board, *et al.*, v. Federal Communications Commission, No. 96-3321 (8th Cir.); *see also Second Report and Order, Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, 8 FCC Rcd 4478, at 4481 (1993).

[48] Jon Van and Patricia Tennison, *op cit.*, *quoting* Pat Dutton of the WUTC.

[49] "Caller-Pays Cellular Okayed," *State Telephone Regulation Report*, November 30, 1995.

stated, and Commission engineering staff confirmed, that branding will not be technically feasible in Washington state for two years."[50] (Such "branding," however, is reportedly in place in Utah.[51])

The issue of sufficient notice to calling parties formed one of the elements of the Hawaii Public Utilities Commission's investigation of GTE Mobilnet's attempt to offer (pursuant to tariff, prior to the preemption of state rate regulation of cellular services) CPP. (It is noteworthy that the regulatory interventions of the WUTC and the Montana PSC extended past the period of the preemption of state rate regulation of commercial mobile radio services.)

GTE Mobilnet sought to tariff its CPP service pursuant to a tariff filed February 23, 1993. However, questions as to the ability of subscribers to the competing cellular carrier's services to place calls to GTE's subscribers, and "about the manner in which calls made . . . will be completed, blocked, or billed" and the manner in which LEC customers would be educated about CPP were raised and the tariff was suspended pending an investigation.[52] The Hawaii PUC adopted its *Decision and Order* resolving the issues on September 6, 1994 -- 19 months after the original tariff was filed.[53]

The *Decision and Order* restated the issues as:

1. Whether CPP is a reasonable service to be offered;
2. Whether the proposed rates to subscribers are just and reasonable;
3. Whether, and the extent to which, the billing and collection (B&C) agreement between GTE Mobilnet and GTE Hawaiian Tel will impact ratepayers of either or both GTE Mobilnet and GTE Hawaiian Tel; and
4. Whether, and the extent to which, any leakage that may occur will impact ratepayers or either or both GTE Mobilnet and GTE Hawaiian Tel.[54]

The Hawaii PUC found that the proposal *was* just and reasonable, and it authorized the provision of CPP service for a six month trial period, renewable for an additional five six-month periods.[55] In particular, the Hawaii PUC found the market-driven rates (of 50 cents a minute for the calling party, for both peak and of-peak periods) to be reasonable.

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[50] *See* http://www.washington.edu/wutc/consumer/factshts/cellular.html.

[51] Cynthia Flash, "Option Reverses Charges for Calls to Cell Phones," *The News Tribune*, December 30, 1995, paraphrasing Bowersock. *See also* "Callers Pay With New U S WEST Service," *Cellular Business*, October 1995.

[52] *Re GTE Mobilnet of Hawaii Incorporated*, Docket No. 7687, Order No. 12360, *Slip Opinion*, April 30, 1993.

[53] *Re GTE Mobilnet of Hawaii Incorporated*, Docket No. 7687, Order No. 13543, *Slip Opinion*, September 6, 1994.

[54] *Id.*

[55] *Id.*

Brochures for Ameritech's CPP service state that "when a caller dials the number of a CPP subscriber, they will hear a customized announcement providing the per-minute-of-use airtime charges associated with the call. The caller then has the option of either completing the call, or hanging up to avoid incurring any charges. If the caller decides to accept the charges, they simply press a digit to complete the call."[56]

Section 4.021 Calling Parties and the Applicability of Charges

As previously noted, the issue of consumer notice of the applicability of CPP charges has been addressed by several state regulatory bodies, and resolved in several ways according to technical feasibility. Thus, in Utah, a recorded interrupt message notifies callers that charges are associated with the calls, and provides such callers with the option of either completing or ending the call. In Washington state, callers dial 1 plus a distinct NXX to place calls to CPP subscribers. (As previously indicated, an advertising campaign was conducted to inform consumers of the existence of the CPP option and the charges associated with calls to subscribers to the option. Billing inserts were also disseminated to notify consumers of such charges. However, the Washington state legislature has apparently received complaints from calling parties complaining that inadequate notice existed regarding the charges applying to calls to CPP subscribers.)[57] Some form of notice has been required by practically all regulatory commissions that have dealt with the issue.

As the standard for payment of charges for such calls, "the land-line user calling a cellular CPP-C subscriber will pay for the cellular airtime for the call as well as any applicable land line usage charges."[58] As the WUTC website also states, "the caller is charged for the cellular airtime charges plus any applicable long distance charges. These charges appear on the caller's [U S WEST Communications] monthly phone bill."[59] The implication of the language in U S WEST Communications' *Service Description* is that these "applicable long distance charges" are limited to those intraLATA toll charges billed and billable by U S WEST Communications. U S WEST Communications' *Calling Party Pays Comprehensive Service Description* states "the call originator receives one monthly bill from U S WEST reflecting both charges (regular telephone service charges and airtime charges)."[60] BellCore's market research indicates that "CPP, as currently defined, does not cover the added costs of completing a call to a wireless subscriber who is roaming outside of their local wireless serving area. The additional roaming and long distance charge are paid by the CPP subscriber."[61]

The actual charges applied to these calls by the service providers vary.

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[56]Ameritech, CPP sales brochure "Calling Party Pays Increases Airtime and Network Use," 1997.
[57]Margaret Allen, attorney with the Washington state legislature, April 30, 1997.
[58]Ameritech, "Calling Party Pays - Cellular, Executive Overview."
[59]WUTC website FAQ at http://www.washington.edu/wutc/consumer/factshts/cellular.html.
[60]U S WEST Communications, *Calling Party Pays Comprehensive Service Description*, at 1.
[61]Bell Communications Research, *Calling Party Pays Market Research Study*, at 15.

Section 4.03 Regulatory Delay

Other instances in which regulatory commissions delayed or prevented the implementation of CPP include Arizona and California. In 1990, in response to a proposal that CPP be permitted, the California PUC stated that:

> PacBell and CP National are concerned that the landline customers may not be adequately informed about the additional charge for cellular airtime prior to attempting a call to a cellular phone.
>
> Absent careful planning, consumer education, and a method to alert a wireline caller of the extent of usage charges inherent in a particular call to a cellular telephone, CP National, and other small independent telephone companies believe that LECs should not be allowed to bill for cellular calls based on the "calling party pays" principle at this time.
>
> We concur that LECs should not be allowed to bill the calling party at cellular service rates at this time. However, PacBell and other parties may share the results of any billing feasibility study based on the "calling party pays" principle for our consideration, and comment by other cellular carriers.[62]

Seven years later this prohibition has been modified, when the California PUC authorized a "limited market trial" of CPP by AirTouch Cellular, nine months after receiving a petition seeking modification of the earlier CPUC decision and interim authority to conduct a CPP market trial.[63]

The CPUC has conditioned its permission for a market trial on (1) implementation of a recorded preamble stating "the range of cellular rates for which the landline customer might be responsible if he or she permits the call to the cellular customer to be completed," (2) a call termination or completion option, (3) written notice of the market trial "to affected customers in all of the languages that would be required for bill inserts sent to such customers," and (4) a refund or credit adjustment requirement for any cellular airtime charge "incurred as a result of the CP market trial that is disputed by a LEC business or residential customer."[64] The CPUC specifically applied its existing Market Trial guidelines, which impose limitations including a restriction of the market trial to no more than "5% of the Residential Class, and 15% of the market within the Business Class for the service being tested," in effect prohibiting state-wide or company-wide trials.[65]

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[62]Decision No. 90-06-025, *Investigation on the Commission's own motion into the regulation of cellular radiotelephone utilities, And Related Matters*, Investigation No. 88-11-040, 115 PUR 4th 561 (June 6, 1990).

[63]*See* Decision No. 97-06-109, *Investigation on the Commission's own motion into the regulation of cellular radiotelephone utilities, And Related Matters*, Investigation No. 88-11-040, *Decision Granting in Part Petition to Modify Decision 96-06-025* (June 25, 1997) at 2-3 (the petition for modification was filed September 13, 1996).

[64]*Id.* at 13-14 and n.14 therein.

[65]*Id.* at 11.

The Arizona Corporation Commission (ACC) actually has cited its actions with respect to CPP as evidence of its involvement in preventing anticompetitive activities and ensuring just and reasonable rates for consumers.[66] Specifically, the Arizona Commission stated:

> it is possible for cellular providers to impose external costs on non-cellular subscribers through abuse of monopoly power. In Arizona, U S WEST NewVector, Metro Mobile CTS of Phoenix, and Tucson Cellular Company, sought to introduce "calling party pays" service. This billing option would have allowed cellular usage charges to be billed to a local exchange customer who calls a cellular number, without any notification that such charges would be imposed.
>
> The Arizona Corporation Commission ruled that "calling party pays" service was unacceptable as proposed by the cellular companies. Instead, the ACC intervened to require that "calling party pays" service be available only as a 1+ service. Without the ACC's actions, the cellular companies would have imposed significant, unjust costs on local exchange customers who would have no option to avoid such costs.[67]

The Arizona Commission's position was contradicted by the carriers, who refuted the argument that CPP constituted a competitive issue, maintaining that "Appropriate dialing arrangements for calling-party-pays services . . . was an issue dealt with almost a decade ago as an interconnection issue between cellular carriers and wireline telephone companies -- companies the ACC will continue to regulate regardless of the outcome of its instant petition."[68] Indeed, some carriers argued that this issue really "concerns procedures for notification to a wireline telephone customer. Because the ACC may (and in fact does) regulate 'calling party pays' service pursuant to its jurisdiction over conventional telephone service, this situation is not relevant to meeting the standard [for maintaining regulation over wireless service] under Section 332."[69]

In disposing of the Arizona Commission's petition to preserve its rate regulatory authority, the FCC observed: "Under the Communications Act . . . billing practices are considered 'other terms and conditions' of CMRS offerings, not rates, and the ACC

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[66] *See e.g., Report and Order and Order on Reconsideration, Petition of Arizona Corporation Commission, To Extend State Authority Over Rate and Entry Regulation of All Commercial Mobile Radio Services,* PR Docket No. 94-104, 10 FCC Rcd. 7824, at 7834 (1995).

[67] Arizona Corporation Commission Petition to Extend State Authority of Rate and Entry Regulation of All Commercial Mobile Radio Service, in the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, PR Docket No. 94-104, GN Docket No. 93-252, filed August 9, 1994, at 14.

[68] U S WEST NewVector Opposition, In the Matter of Omnibus Budget Reconciliation Act of 1993, Implementation of Sections 3(n) and 332(c) of the Communications Act, Regulatory Treatment of Mobile Services, PR Docket No. 94-104, filed September 19, 1994, at 16.

[69] Opposition of the Bell Atlantic Metro Mobile Companies, In the Matter of Petition of the Arizona Corporation Commission to Regulate Commercial Mobile Radio Services, PR Docket No. 94-104, filed September 19, 1994, at 24.

retains authority to regulate such practices. Regulatory activity concerning such practices is not justification for continued rate regulation authority."[70] This apparent *dicta* raises the question of whose service is at issue, and to what extent it falls within the states' regulatory jurisdiction.

Section 4.04 Regulatory Jurisdiction

The question of regulatory jurisdiction is raised by the apparently contradictory positions of some state regulatory commissions, as well as the FCC's summary discussion of the issues raised by the Arizona Corporation Commission in the 1994-1995 state preemption proceeding.

Regarding apparently contradictory ruling, the Washington Utilities and Transportation Commission noted in dealing with U S WEST Communications' CPP proposal that "billing and collection services are considered competitive because, in theory, the cellular companies could use another company to bill CPP service. The Commission has limited authority and oversight regarding services considered competitive."[71]

However, while cellular service and billing is not regulated in Montana, the Public Service Commission "asserted jurisdiction . . . after the Montana Consumer Counsel argued that CPP was a noncompetitive, discriminatory billing practice that shifts unregulated charges for cellular airtime onto unwitting regulated U S WEST local wireline customers."[72]

The Montana PSC did approve CPP after concluding that "the billing option may have general public benefits," and after U S WEST Communications offered a plan to notify customers via bill inserts and to include such information in future phone directories. U S WEST Communications also agreed to "allow one bill adjustment to delete cellular airtime charges for a landline customer who complains about not knowing of Calling Party Pays, and [agreeing to] provide landline customers with a point of contact to get cellular airtime rate information upon request."[73] However, this required a regulatory hearing which lasted through most of 1995, and ultimately U S WEST Communications did not offer CPP in Montana.[74] Similarly, in Hawaii the product offering was ultimately approved after a delay of 19 months.

It may be that the source of the apparent contradictions lies in the respective state commissions' enabling legislation. However, the question of jurisdiction may warrant closer examination in light of the role CPP played in the Arizona Corporation

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[70] 10 FCC Rcd. at 7837.
[71] WUTC website FAQ at http://www.washington.edu/wutc/consumer/factshts/cellular.html.
[72] "Caller-Pays Cellular Okayed," *State Telephone Regulation Report*, November 30, 1995.
[73] *Id.*
[74] Debbie Fivecoat, U S WEST Communications, March 28, 1997.

Commission's petition to retain regulatory jurisdiction over commercial mobile radio services. As was noted above, the FCC observed in passing that "Under the Communications Act . . . billing practices are considered 'other terms and conditions' of CMRS offerings, not rates, and the ACC retains authority to regulate such practices. Regulatory activity concerning such practices is not justification for continued rate regulation authority."[75] While apparently *dicta*, it may require clarification. Moreover, it has recently been reported that one PCS licensee, interested in providing CPP as an option, has been told by the LEC that the PCS licensee must file a tariff with the state PUC in order to provide the CPP option to its subscribers. Furthermore, it has been reported that the Wireless Telecommunications Bureau has merely expressed polite and non-contradictory interest in that position. CPP can also be characterized as a CMRS service (*i.e.*, the wireless carrier's charges for the use of its CMRS network) combined with detariffed billing and collection service.

Section 4.041 CMRS-LEC Calling Area Relationships

Other issues which will require more detailed examination include how the CMRS and LEC local calling areas relate to each other, and how CPP traffic exchanged between LEC and CMRS networks will be treated for rating purposes when such traffic originates within a LEC local calling area and terminates in a non-overlapping CMRS local calling area. For example, would such CPP traffic be subject to originating access charges or be subject to toll charges? Under the *Local Competition* order, as an intra-MTA call, it should be treated in the same fashion as one in which the called party formerly paid. To the extent that this issue is not completely resolved by the FCC's *Local Competition* order, this may require further clarification by the FCC to ensure appropriate resolution.[76]

Section 4.042 Number Privacy

In December 1996, it was reported that the Canadian Commission had responded to arguments that CPP and Caller I.D. had implications for consumer attitudes towards number publication.

> The Commission notes that the market trial for Calling Party Pays entailed the payment of a monthly fee by the cellular subscriber. Anyone calling that cellular subscriber would receive a taped message informing the caller that he or she would be billed a fee to complete the call. In the Commission's view, the introduction of such a service would not warrant a departure from the current practice of not releasing cellular subscribers' numbers except upon request. In the Commission's view, Calling Party

[75] 10 FCC Rcd. at 7837.

[76] *See First Report and Order*, 11 FCC Rcd. at 16016-17. *See also* Petition for Limited Clarification of CTIA, filed September 30, 1996.