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July 8, 1998

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 96-128; Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

Dear Ms. Salas:

Today, Jim Smith of Excel, Danny Adams of Kelley, Drye and Warren (on behalf of Cable and Wireless, CompTel, Frontier, and LCI), Dick Juhnke of Sprint, Al Lewis of AT&T and I met with Robert Spangler, Dorothy Atwood, Larry Strickling, Blaise Scinto, Craig Stroup and Don Stockdale of the Common Carrier Bureau. The purpose of the meeting was to review the history of the proceeding discuss options available to the FCC on the remand of this proceeding by the U.S. Court of Appeals for the District of Columbia Circuit.

The attached material was used as the basis of the presentation and details the topics discussed.

Please add this letter and the enclosed copy to the record of this proceeding.

Sincerely,


Leonard S. Sawicki

Attachment

- cc: Ms. Atwood
- Ms. Scinto
- Mr. Spangler
- Mr. Stockdale
- Mr. Strickling
- Mr. Stroup

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List A B C D E

PAYPHONE COMPENSATION- AN IXC PERSPECTIVE

- Industry Structure:
 - There are about 2.2 million payphones
 - LECs own 75% of payphones; the remainder are owned by Independent Payphone Providers (IPPs)
 - 70% of calls are coin calls - rates are deregulated
 - PSPs receive substantial revenue from commissions on 0+ calls
 - Payphone “competition” takes the form of competing on the basis of the amount of commissions paid to site owners -- not on offering low-cost service to consumers.
 - There is no competition for payphone use at the point of sale
 - In nearly all cases, PSPs have an exclusive right to provide payphones at a location
 - The right stems from the location owner’s right to exercise control over its property, a right telecom regulators cannot affect
 - Increased revenues get siphoned off by site owners in the form of higher placement fees

PAYPHONE COMPENSATION- AN IXC PERSPECTIVE

- History of Payphone Compensation
 - Commissions on 0+ calls began in the late 1980's with the advent of "equal access" at payphones
 - IXC payphone compensation for dial-around calls started in 1993 with a rate of \$6.00 per phone per month (for IPPs only), later replaced with negotiated rate of \$.25, to recognize the growing volumes of "dial-around" calls to operator access platforms
 - Scope of payments broadened by the Telecom Act, to include 800 "subscriber" traffic and LEC payphones

PAYPHONE COMPENSATION- AN IXC PERSPECTIVE

- The Payphone I Order called for a \$.35 rate, to be paid by IXCs, but was later overturned by the Court
 - “market -based” rate approach, based on the price for local coin calls
 - cost data was not a factor
 - resulted in over \$500M increased costs to IXCs
 - put the responsibility for tracking/paying, and cost recovery, on the IXCs
 - resulted in considerable consumer protest
- The Payphone II Order resulted in a rate of \$.284, again starting with the local coin rate, and was again found to be deficient by the Court

PAYPHONE COMPENSATION- AN IXC PERSPECTIVE

- Both Orders are fundamentally flawed in using the “market rate” for coin calls as the starting point for compensation for coinless calls
 - The local coin market is not the same as the IXC market for coinless dial-around and subscriber 800 calls - same seller but different buyers
 - The only coinless market analog to the local coin market would be a calling party pays compensation structure
 - Using a carrier pays compensation scheme, the only IXC “market rate” is \$.25 per call for dial-around calls and a much lower rate for subscriber 800 calls
 - Subscriber 800 calls produce far less revenue (roughly one-fifth) than dial-around calls, and account for two-thirds of all calls to subject to the compensation requirement.
 - A weighted average would produce a compensation rate of about 12 cents

PAYPHONE COMPENSATION- AN IXC PERSPECTIVE

- In the absence of a market-based approach, a cost approach is necessary
- But both Orders failed to use cost information correctly
 - IXCs submitted data that show that the cost of coinless access code calls is in the range of \$.06-\$.12 per message
 - Even LEC data produces a cost of no more than \$.16-\$.18 per message
 - The FCC's limited recognition of cost data was incorrectly based on the private providers only, not the more cost-efficient LECs

PAYPHONE COMPENSATION- AN IXC PERSPECTIVE

- History has already shown that the IXCs have been unfairly placed between the payphone providers and consumers
 - IXCs have had little choice but to pass payphone compensation on to consumers
 - Tracking and billing of calls by IXCs is complex undertaking
 - Administratively burdensome. Requires IXCs to track billions of calls from over 2 million payphones. Each IXC must deal with 1500 payees.
 - To gain bargaining leverage, IXCs will have to build expensive systems for selective call blocking -- which will depress IXC revenues (no revenues from blocked calls).