

XII. Future Regulatory Rulings

61. **Does the fact that both paging carriers and ISPs generally receive traffic but do not originate traffic require that the traffic directed to each be treated the same for compensation purposes?**

No. There are significant differences between paging carriers and ISPs that may properly result in different treatment of the traffic to each. Paging service providers are telecommunications carriers and exchange co-carriers with all of the regulatory obligations that attend those classifications. In contrast, ISPs have been specifically exempted from classification as telecommunications carriers,^{47/} and the FCC repeatedly has ruled that ISPs are to be treated as “end-users” for regulatory purposes. This distinction can serve to alter rights to compensation.^{48/} Additionally, a paging message terminates at a specific location which can be characterized as being either local or non-local. A call to an ISP enters the “Internet cloud” which means that the point of termination of the communication defies easy categorization in terms of locality. In light of these significant differences, the Commission need not treat traffic to paging companies and ISPs in identical fashion.

62. **What should the Commission do on reconsideration in the paging interconnection proceeding?**

The Commission should: (a) affirm its prior rulings regarding the basic entitlement of paging carriers to reciprocal compensation; (b) confirm the obligation of LECs to bear the usage sensitive and non-usage sensitive costs associated with the delivery of LEC-originated traffic to paging companies for local termination; and (c) abandon forevermore the vacated rule which singled paging companies out as the only CMRS carriers obligated to perform their own Total Element Long Run Incremental Cost (“TELRIC”) studies in order to receive terminating compensation.

^{47/}Local Competition First Report at para. 995.

^{48/}For example, when a call involves a pager, the paging company is the terminating carrier. When a call involves an Internet user, the LEC or CLEC serving the ISP, not the ISP, is the terminating carrier.

63. What other actions should the Commission take to resolve paging/LEC interconnection issues?

The Commission should exercise the full limit of its jurisdiction under Section 332 of the Communications Act and establish a federal forum for setting the rates that CMRS carriers charge LECs for terminating traffic. Since the states are preempted under Section 332 of the Communications Act from regulating CMRS rates, and since the charge imposed by a paging carrier on a LEC for termination service is a CMRS rate, it should be deemed within the exclusive domain of the FCC.

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