

US INTELLA-WEST, INC.

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September 30, 1998

The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

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Dear Chairman Kennard:

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

I am the owner of a payphone company and depend on my business to provide for business expenses and the needs of my family just like every other business owner in America. As any other seller of a product, it is my expectation and my right to be compensated for the goods I sell.

Dial-around compensation was born out of the need generated by the ability of one company to sell its services from business equipment paid for by another, i.e. the payphone. When an AT&T call is placed at my payphone, AT&T earns a profit as well as recovering its costs. Because FCC regulation has taken away my freedom to control the use of my payphone access, AT&T does what any self-interested and profit motivated company would do: they gladly *use* my business equipment and pay me *nothing!*

The FCC has recognized the inherent unfairness of one "for profit" entity being allowed to usurp the expensive equipment and manpower of another company which must also make a profit to survive. As the right of AT&T to be *accessed* from private payphones "*free*" was legislated, so must the requirement that AT&T *pay* for this benefit be legislated or ordered where AT&T or others use private payphones in their businesses! The concept is no longer an issue. The remaining question is simply "how much?"

In his 8-11-98 letter to you, Senator Ron Wyden brings up the question of compensation for 800 calls from payphones, and argues that the importance to the public of these calls supports the lowering of the currently set interim dial-around amount of 28.4 cents. He states that all business, large and small, government, consumers, and the ECONOMY AS A WHOLE depends on payphones for generating these 800 calls. He also infers that the payphone provider should not be entitled to any more than the *cost* for the calls. In a general unsupported claim, he states this amount exceeds the cost. What does he think the cost is? And, more importantly, why does he think the economy will crumble if the payphone provider shares in the profits already being made by those businesses which are relying on the payphones *of others* for their profits?

Safeway would be much more profitable if it did not have to pay for its large premises, but could sell its food products from the premises of a competitor! No duh! Likewise, GTE, a seller of 800 service, is much more profitable if it does not have to pay me anything when my payphone is used for transmission of an 800 call. It is only because the *paid players* are invisible that the absurdity of this situation does not stand out like the Safeway example.

In fact, GTE sells 800 calls for more, in many cases, than direct calls. ~~No. of Copies rec'd~~ ~~Wyden's ex-~~
ample, the battered woman calling a shelter on a payphone using an 800# generates much more money for GTE ~~List ABCDE~~
than that same call placed directly. GTE charges long distance rates for these calls ~~even when they are local~~
calls! Likewise, when the call is placed from a private payphone, GTE does not even have to pay to provide and maintain the hardware, adding to its bottom line. Further, GTE's gratuitous use of the hardware is made even sweeter for GTE by the fact that the uncompensated payphone provider has to *pay* GTE for the telephone line

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the caller is using! In other words, GTE is making a profit from *two* customers every time a private payphone is used to generate an 800# call by a battered woman to a women's shelter. Why isn't Senator Wyden having a problem with that, I wonder?

Senator Wyden supports his argument that the dial-around compensation should be lowered by emphasizing how important payphones are to businesses, large and small, government, consumers etc. I don't get it. Isn't that what every business strives for in a product? Is the fact that we all need food to live an argument for mandating that no grocery store should be allowed to make a profit on the sale of food? Should that happen, there would be no food stores. Should the FCC decide payphones should only recover their costs, there will be no more payphones. Then only the lucky people with enough money to pay for telephone service will be able to make 800# calls, and that is not exactly the "promotion of the wide deployment of payphones" sought by Section 276 of the Telecommunications Act.

Senator Wyden also incorrectly implies that the consumer will be affected by a failure to lower the current dial-around amount. No one is advocating that the consumer pay for 800 calls. Rather, when profit motivated business uses the business property of the private payphone company, that business should share the earnings already being made with the payphone company which helped generate that particular piece of revenue. If the consumer is affected, it will only be because the other businesses, the ones with control over the charges, decide to increase the charges. The payphone provider is a passive player, has no control over the charges, and has no control over usage. All the payphone provider is asking for is the protection of the FCC over continuing and past abuse by the highly profitable businesses which have become accustomed to the luxury of free use of private payphones!

Senator Wyden's letter does not address the reasons for limiting dial-around compensation to a cost-based rate, nor does he tell us what the cost of these calls is. He does not even seem to realize that 800 calls are for the most part making many other companies a pretty profit. The payphone business, as an integral part of that revenue generation to other private business, simply asks that it be allowed its fair share. That share is hardly fair if profit is denied.

Sincerely,
US INTELLA-WEST, INC.

A handwritten signature in black ink, appearing to read "Nanci L. Weatherhead". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Nanci L. Weatherhead