

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of)
)
Calling Party Pays Service Offering) WT Docket No. 97-207
in the Commercial Mobile Radio Services)

**REPLY COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

Michael F. Altschul
Vice President, General Counsel

Randall S. Coleman
Vice President for Regulatory Policy and Law

**CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION**
1250 Connecticut Avenue, N.W., Suite 800
Washington, D.C. 20036
(202) 785-0081

Its Attorneys

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SUMMARY

Several commenters believe that CPP will harm rather than promote consumer welfare. They want to prevent CPP from the outset or saddle it with unnecessary regulatory constraints such as a detailed CPP notification message that discloses per-minute rates and other charges. Other commenters believe that the Commission should do more to promote CPP development by mandating LEC billing and collection for CPP services. Similarly, other commenters request that the Commission mandate CPP technical requirements and impose reseller switch co-location so that resellers can provide CPP services.

CTIA believes that the concerns raised by commenters about the potential negative repercussions of CPP are misplaced and overstated. Moreover, calls for more aggressive CPP mandates involving detailed regulation of the notification message, LEC/CMRS billing, technical standards, and the reseller switch are unnecessary and inappropriate at this time. In its Reply Comments, CTIA dispels the assumptions that CPP is anti-competitive or requires detailed, stringent regulation. Specifically, the Commission should:

- Reject commenter requests to delay or defer CPP implementation until evidence is available of the utility of CPP.
- Refrain from micromanaging the notification mechanism. Rather, the Commission should ensure that carriers are able to notify callers in a short, simple, and effective manner that they will be charged to complete the CPP call.
- Decline to impose a mandatory billing and collection obligation on LECs. The billing industry is competitive and dynamic, providing CMRS carriers with numerous billing alternatives. Moreover, there is every reason to believe that voluntary negotiations will result in favorable billing arrangements.
- Permit the CMRS industry the flexibility to adopt appropriate technical standards that will minimize leakage.
- Reject proposals by resellers to impose reseller switch requirements on CMRS licensees.

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The Cellular Telecommunications Industry Association ("CTIA")¹ hereby submits its Reply Comments in the above captioned proceeding.²

I. INTRODUCTION

The CMRS market is the competitive success story for the telecommunications industry; its evolution is characterized by dynamic growth and rapid response to consumer preferences. Reliance upon market forces to shape market development, though, contrasts with the traditional role of public utility regulation. As Chairman Kennard explained,

A traditional role for government has been to predict the market and write a rule; and to act as gate-keepers to markets, deciding who may enter, and who may not. I believe today's markets are moving too fast for us to act in that role very much longer. Before the ink is dry on a rule, the market has erased the lines drawn by

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including 49 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

² In the Matter of Calling Party Pays Service Offering in the Commercial Mobile Radio Services, Declaratory Ruling and Notice of Proposed RuleMaking, WT Docket No. 97-207, FCC 99-137 (rel. July 7, 1999) ("Notice").

the rule. Government can step in selectively, but only very selectively.³

Given the competitive functioning of the CMRS market, the government can no longer afford to second-guess market developments. Rather, a much more selective approach is necessary. In the case of CPP, the government's primary role should be to remove regulatory barriers to ensure that CPP evolves according to consumer preference and is not thwarted by regulatory miscue.

In its Comments, CTIA identified the issues surrounding CPP deployment that require government action. Specifically, CTIA requested that the Commission:

- liberalize its definition of CPP to include CPP charges recovered through interconnection compensation rates;
- preempt states from regulating the notification mechanisms associated with CPP calls;
- adopt a uniform, national notification mechanism that informs callers in a short and simple -- yet effective -- manner that they will be charged to complete the CMRS CPP call;
- ensure that CMRS carriers are able to achieve binding obligations with calling parties;
- refrain from regulating the rates charged by CMRS providers for CPP calls; and
- refrain from requiring LECs to provide CPP billing and collection services.

Each of these actions, by its nature, is limited in scope and designed to maximize carrier and consumer flexibility consistent with a market-based approach to CPP.

A fair number of commenters have responded to the Commission's Notice expressing their concern that CPP will harm rather than promote consumer welfare. Many of the adherents to the anti-CPP philosophy request that the Commission either (1) prevent CPP from the outset;

³ Remarks by Chairman William E. Kennard, Federal Communications Commission, "The New FCC: Fast Flat, and Functional," Before Georgetown University Law Center, Continuing Legal Education, FCC 2000, Washington, D.C., 6 (Oct. 5, 1999) (as prepared for delivery).

or (2) saddle it with unnecessary regulatory constraints. CTIA submits that these comments reflect a basic distrust of market forces. Motivated by the desire to protect the "captive local ratepayer," and hardened by, among other things, the negative experiences associated with pay-per-call 900 services, some commenters are more than willing to sacrifice consumer choice and market innovation by stifling the introduction of CPP services. This viewpoint is inconsistent with the Commission's proper regulatory role in a competitive market. Moreover, it exceeds genuine consumer protection requirements and illustrates the need for a national approach to CPP free from unnecessary state regulatory interference. Just as telecommunications carriers have adapted to the rapid changes associated with competition, so too must regulators.

Moreover, some commenters believe that the Commission should do more to promote CPP development by mandating local exchange carrier ("LEC ") billing and collection for CPP services. In effect, these commenters ask the Commission to reverse precedent, intervene in the marketplace, and attach an affirmative obligation on LECs to assist with CMRS carrier provision of CPP services. Similarly, other commenters request that the Commission affirmatively advance their interests by, for example, mandating CPP technical requirements and imposing reseller switch co-location so that resellers can provide CPP services. Proponents of Commission intervention in the technical standard-setting process apparently believe that the industry is incapable of addressing such problems as leakage. Finally, reseller switch advocates seemingly assume that the level of CMRS market concentration necessitates significant government intervention through the adoption of co-location requirements.

CTIA believes that the concerns raised by commenters about the potential negative repercussions of CPP are misplaced and overstated. It also continues to believe that the calls for

more aggressive CPP mandates involving LEC/CMRS billing, technical standards, and the reseller switch are unnecessary and inappropriate at this time. In its Reply Comments, CTIA dispels the assumptions that CPP is anti-competitive or requires detailed, stringent regulation.

Specifically, the Commission should:

- Reject commenter requests to delay or defer CPP implementation until evidence is available of the utility of CPP.
- Refrain from micromanaging the notification mechanism. Rather, the Commission should ensure that carriers are able to notify callers in a short, simple, and effective manner about CPP. There should be no requirement to disclose CPP rates.
- Decline to impose a mandatory billing and collection requirement on LECs. The billing industry is competitive and dynamic, providing CMRS carriers with numerous billing alternatives. Moreover, there is every reason to believe that voluntary negotiations will result in favorable billing arrangements.
- Permit the CMRS industry the flexibility to adopt appropriate technical standards that will minimize leakage.
- Reject proposals by resellers to impose reseller switch requirements on CMRS licensees.

By such action, the Commission will not cede its responsibility to protect consumers, shirk its obligations to promote consumer welfare, or irreparably impair the introduction of CPP services. Rather, the Commission can selectively remove barriers to the development of CPP, yet still retain necessary vigilance. In effect, the Commission will provide carriers with the needed flexibility to respond to consumer demand so that that the market, and not the government, shapes CPP development.

II. THE COMMISSION SHOULD REJECT COMMENTER REQUESTS TO IMPOSE UNNECESSARY REGULATORY OBLIGATIONS ON CPP OFFERINGS OR OTHERWISE CONSTRAIN CPP DEVELOPMENT.

Certain state regulators and consumer interest organizations, are apprehensive that CPP services will be detrimental to consumers, both wireless and wireline. These commenters

assume the worst, and, in turn, recommend that the Commission prepare for the worst. Moreover, some commenters believe that the Commission must take a more aggressive role in promoting CPP deployment than appears necessary. They variously call for mandatory billing and collection, mandatory technical standards, and mandatory reseller switch interconnection. As demonstrated below, these commenters grossly overstate the role that the Commission must assume to achieve its identified goal of ensuring that the success or failure of CPP reflects the commercial judgments of service providers and the informed choices of telecommunications consumers, rather than unnecessary regulatory or legal obstacles and uncertainties.⁴

A. The Commission Need Not Demonstrate A Need For CPP As A Condition Precedent To Removing Regulatory Obstacles To CPP Development.

Several state regulators and consumer organizations continue to question the Commission's propensity to adopt rules that may foster CPP's development. One state regulator questions why the Commission "feels compelled at this point to undertake the affirmative task of aggressively promoting cellular growth, particularly when it comes at the expense of wireline customers"⁵ Another state regulatory agency "believes [that] CPP is not needed and ill advised at this time"⁶ Similarly, other commenters claim "adoption of rules permitting the

⁴ See Notice at ¶ 1.

⁵ See Comments of the Public Utilities Commission of Ohio at 3 ("Ohio Commission Comments").

⁶ See Reply Comments of the Florida Public Service Commission in WT Docket No. 97-207, at 3 ("Florida Commission Replies"). See also Comments of the Connecticut Department of Public Utility Control at 2-3 (the Commission should proceed slowly and assess CPP's competitive impact before sanctioning formal CPP services) ("CTDPUC Comments"); Comments of the Public Service Commission of Wisconsin at 2-3 ("Wisconsin Commission Comments").

widespread introduction and proliferation of Wireless Calling Party Pays (WCPP) pricing will diminish competition for wireless services, increase prices to consumers, make wireless telephones less accessible from wireline phones, and be detrimental to the interests of consumers and the public generally."⁷ The Commission should not let these commenters' misguided skepticism deter it from its goals.

Those commenters that question the Commission's *bona fides* in addressing CPP reveal a fundamental misunderstanding of the proper role of government in a competitive market. CTIA respectfully submits that the Commission should permit the market to decide what services flourish and what services fail. It is not the Commission's job to pick the market winners or the market losers. Nor is it part of the Commission's mission under the Communications Act of 1934, as amended ("Communications Act"), to assess demand for a particular service before removing barriers to its development.

More fundamentally, CPP skeptics sell the Commission short. They assume that the Commission is unable or unwilling to remain attentive to market developments -- that it cannot prevent market abuses when they occur. Those opposed to CPP provide a skewed picture of events that does not give sufficient credence to the common sense of consumers, CMRS carriers' good business practices, and the competitive pressures that will shape CPP offerings. Simply stated, the proper response to these commenters is a statement from the Commission that it is willing and able to step in if and when inappropriate conduct occurs and the market fails to police it.

⁷ See Joint Comments of Texas Office of Public Utility Counsel, Consumer Federation of American, Consumer Union at 1-2 ("Joint Commenters").

If anything, commenters grossly overstate the market significance of CPP. Thus, contrary to commenter assertions, CPP does not represent a core threat to the local ratepayer. It is not a slippery slope that risks exposing local ratepayers to unwarranted charges for local wireline service.⁸ Nor does it sound the death knell for CMRS competition. CPP is simply a service option. Assuming the Commission successfully removes regulatory barriers to its development, CPP will compete or complement other CMRS service offerings such as pre-paid service, flat rate calling, and one rate calling plans.

B. The Commission Can Protect Consumers Without Resorting To Intrusive Regulation Of The CPP Notification Mechanism.

Several commenters, including the Federal Trade Commission ("FTC") and certain state regulators and consumer organizations,⁹ call for extensive regulation of CPP offerings because of their stated desire to protect consumers from potentially unscrupulous CMRS carrier conduct.

⁸ See Comments of the Pennsylvania Office of Consumer Advocate and Missouri Office of the Public Council at 2 ("Pennsylvania/Missouri Consumer Advocates Comments"). Among other things, the Pennsylvania/Missouri Consumer Advocates believe that wireline carriers will be disadvantaged because they offer flat rate unlimited calling and wireless carriers will be able to collect from wireline callers. They also raise a concern that the wireline industry may try to adopt a form of CPP for local wireline services. *Id.* at 8-9. These concerns are unwarranted. Notably, with today's wireline services calling party pays is the norm; thus, CPP will afford wireless carriers no competitive advantage that wireline carriers do not already enjoy. Rather, CPP will ensure that for CMRS services the cost-causer, *i.e.*, the calling party, is responsible for the charges. Moreover, a wireline carrier's ability to adopt measured service as opposed to flat rate service is squarely within the state's jurisdiction, and will not be affected by the adoption of CPP rules.

⁹ For example the Joint Commenters believe that the Commission should (1) require unique and easily recognizable numbering; (2) regulate CPP rates; (3) require uniform notification of the CPP rate and service provider that will continue indefinitely; (4) require affirmative action by the calling party before charges can commence; and (5) require call blocking abilities. Joint Commenters at 3.

These commenters entreat the Commission variously to subject CPP calls to the 900-number pay-per-call regime and to ensure that state regulators have an ongoing role in CPP regulation. If CPP services are to be given a realistic opportunity to succeed, the Commission must reject these requests in favor of results-oriented regulation. The Commission should allow carriers to adopt a clear, simple, flexible notification mechanism that adequately informs consumers about CPP service offerings.

1. The Pay Per Call Regulatory Regime Is Inappropriate For CPP Service Offerings.

The FTC believes that the Commission should look to the pay-per-call statutory framework found in the Telephone Disclosure and Dispute Resolution Act of 1992 ("TDDRA")¹⁰ and the FTC's own pay-per-call regulatory framework in regulating CPP services.¹¹ Specifically, the FTC speculates that CMRS carriers and/or their subscribers will hatch schemes similar to those occurring in the 900 number services by, for example, charging excessive or deceptive per-minute rates to callings parties.¹² The FTC is concerned that if callers are gouged by these services, then they will not have access to the remedies provided by the TDDRA; therefore, it recommends that the Commission's regulations be sufficiently stringent to deter these

¹⁰ 15 U.S.C. § 5701 *et seq.* and 47 U.S.C. § 228.

¹¹ See Comments of the Federal Trade Commission at 27 ("FTC Comments").

¹² Id. at 17-18. The FTC raises five scenarios in which, among other things, the CMRS carrier charges \$3.00 per minute for incoming calls, and \$.30 per minute for outgoing calls, or \$4.99 per minute for both incoming and outgoing calls. The CMRS carrier also provides incentives and rebates to its CMRS CPP subscribers to encourage a higher volume of incoming traffic. The CMRS CPP subscriber, in turn, sets up a psychic friends or a "talk to Santa" service. Or it otherwise encourages members of the public to call its CMRS number to respond to a want ad or to receive technical advice for a recently-purchased product.

potentialities.¹³ While the FTC must be vigilant in protecting American consumers, nevertheless, CTIA believes that there are less restrictive means of protecting callers without resorting to the TDDRA regulatory regime.

Notably, the fact that CPP is a CMRS service significantly limits the type of conduct that the FTC envisions. By definition CMRS is a common carrier service. Common carriers, in turn, provide transmission services; they provide a communications pathway, not content. Thus, CPP does not and cannot fit within the definition of a pay per call service.¹⁴ To the extent that a caller or a carrier markets audio-text services through a CPP offering, the provisions of the TDDRA are available and applicable.¹⁵

Moreover, the Communications Act imposes on all common carriers, including CMRS licensees, regulatory obligations that are readily available to prevent the type of conduct envisioned by the FTC. All CMRS carriers are subject under Title II of the Communications Act to obligations ensuring that their charges and practices are just, reasonable, and reasonably nondiscriminatory.¹⁶ Congress has afforded the Commission a wealth of enforcement measures including the ability to set fines and revoke carrier licenses.¹⁷ The Commission already

¹³ Id.

¹⁴ See id. at 4, n. 13 (explaining scope of TDDRA regulations); see also Comments of U S WEST at 16 (explaining distinctions between CPP and 900 services that justify less stringent regulation of CPP services) ("U S WEST Comments").

¹⁵ As the FTC acknowledges, when a common carrier is engaged in basic common carrier transmission service, the FTC's jurisdiction is necessarily limited. See FTC Comments at 20, n. 47.

¹⁶ See 47 U.S.C. §§ 201-202.

¹⁷ The Commission's enforcement ability with respect to CMRS licensees is arguably more varied and significant than with non-licensee common carriers. If the Commission is

possesses adequate remedies without adopting the FTC's proposals. Given this, to impose the pay-per-call regime on CMRS providers would be regulatory overkill.¹⁸

2. The Commission Can Ensure That Consumers Are Adequately Protected Without Sharing Jurisdiction Over CPP With The States.

Several commenters have expressed a general concern that states be permitted to retain concurrent jurisdiction to ensure that landline callers are adequately protected from unscrupulous CPP rates and other inappropriate carrier conduct.¹⁹ For example, AARP believes that the Commission's CPP regulation should respect states' traditional role as "guardians of consumer protection" and not preempt such state regulation.²⁰

CTIA recognizes that it is essential that consumers have an understanding of CPP services necessary to make informed decisions. The industry has already acted responsibly by requesting that the Commission adopt a uniform, nationwide notification mechanism to alert

concerned about the type of conduct postulated by the FTC, it could limit who may provide CPP services; that is, only CMRS carriers with Commission licenses would be authorized to provide CPP service to consumers. See Comments of the Competition Policy Institute at 8 (raising concern that a wireless reseller may help a CMRS customer set up a psychic line or other pay-per-call type service).

¹⁸ Notably, in the case of 900 services, there was documented evidence of inappropriate conduct before Congress intervened to pass the TDDRA and the FTC began its stringent enforcement practices. By contrast, with CPP the record is bereft of documented evidence of abuses by CMRS carriers. As CTIA noted in its Comments, regulation designed to address a non-existing problem is patently inappropriate. Comments of the Cellular Telecommunications Industry Association at 26-28 ("CTIA Comments").

¹⁹ See, e.g., CTDPU Comments at 2-4 (Commission should not weaken or usurp a state's existing consumer protection laws); Comments of the California Public Utilities Commission and of the People of the State of California at 4 (Commission should establish minimum notification rules that state commissions may augment) ("CPUC Comments").

²⁰ Comments of AARP at 3 ("AARP Comments").

consumers that there will be a charge associated with the call. In fact, since notification is a given, it is in the wireless industry's best interests to engage in practices that benefit consumers. Carriers have expended tremendous resources on advertising campaigns in an effort to establish name brands and an expanded presence. They are not going to risk the goodwill that they have generated to date by mistreating potential customers and jeopardizing existing customer relationships. For these reasons as well as those explained further below, the Commission need not rely upon the states to protect consumers' interests. Rather, the Commission may rely on the market to ensure that consumers have the ability to make informed CPP decisions.

CTIA is heartened by the recognition of certain commenters, including the Pennsylvania and Missouri consumer advocate designees, that the CMRS market is competitive. As the Pennsylvania/Missouri Consumer Advocates concede, "[c]ompetition in the wireless industry over the past several years has produced dramatic decreases in airtime charges and has fostered the introduction of service packages in which the wireless customer pays little or nothing to receive incoming calls."²¹ Citing the Commission's fourth report on CMRS competition, they further observe that the "[w]ireless industry price decreases, as a result of the success of the wireless industry, have been remarkable."²²

Of course, all of these positive market developments have occurred without state regulation of the CMRS industry. This is instructive -- there was a time when many states thought that rate and entry regulation was essential to protect consumers and promote

²¹ Pennsylvania/Missouri Consumer Advocate Comments at 6 (citation omitted).

²² Id. at 7 (referencing Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, Fourth Report, FCC 99-136 (rel. June 24, 1999)).

competition in the CMRS industry. Yet the Commission relied on the market to regulate the industry, and with significant success. Now is not the time to reverse course, especially when alternative market protections will be available to protect consumers.

One means of protecting consumers that does not require resort to state regulation is to ensure that CPP remains a voluntary service option for both carriers and consumers. The Commission should not adopt any CPP obligation that requires all carriers to offer CPP services, or in turn, obligates all CMRS customers of a particular carrier to subscribe to CPP.²³ By providing customers and carriers with a choice, the Commission ensures that the market will function more effectively.

The market will have a positive effect on CPP rates. As noted by Bell Atlantic,

Market forces will exert pressure on the CPP rates CMRS providers charge callers. A CMRS provider will market CPP services to consumers as another pricing option, an alternative to the standard mobile-always-pays arrangement. This marketing will also be in competition with the other CMRS offerings, CPP and non-CPP, of other providers. In making a choice, the consumer will have to consider the CPP price callers will have to pay to reach her. And the typical consumer will not want her friends, family and business associates overpaying to make calls to her, and she will not choose the CPP plan if that price is too high. The market will naturally exert downward pressure on prices, and there is no need for regulation.²⁴

²³ In this way, the Commission would be well-advised in not requiring the European model of CPP for the U.S. To the extent that the European Model is involuntary (or opt-out), employs a special number for call notification, and requires mandatory billing and collection by ILECs, see .e.g., Comments of the Personal Communications Industry Association at 14-23 ("PCIA Comments"), it is simply too inflexible to be imposed on U.S. CMRS carriers as the correct (or sole) means of offering CPP services.

²⁴ Comments of Bell Atlantic at 5. See Comments of BellSouth Corporation at 21 ("it is unlikely that CMRS subscribers would sign up for a service subjecting their callers to excessive rates that they believe might dissuade them from completing the call, unless that was the CMRS subscriber's goal") (citation omitted); Comments of Airtouch

It is important to view CPP in context with the current CMRS market because doing so demonstrates that reliance upon market forces will be effective. At this time, CMRS phone numbers are not widely disbursed. That is, there are no CMRS-specific phone directories or general phone directories that list CMRS subscriber phone numbers as a matter of course. Invariably, this means that the majority of persons who call CPP subscribers, at least in the early phases of CPP implementation, will have received the phone number directly from the CMRS CPP subscriber. In turn, this means that there is a pre-existing relationship, whether personal or professional, between the CMRS CPP subscriber and the caller. Given this, there is every reason to believe that a CMRS CPP subscriber will have a direct interest in ensuring that callers are not gouged or otherwise mistreated by the CMRS provider.²⁵ Thus, during the introductory phase of CPP, arguably when consumers/callers are most vulnerable, the market protections afforded by the relationship between the caller and the CMRS CPP subscriber are maximized. Once CPP becomes more established and CMRS phone numbers become more widely distributed,

Communications, Inc. at 56-58 (AirTouch notes that calling parties can influence the called party's choice of CMRS carrier, and that supra-competitive prices for CPP calls will reduce wireless usage and result in revenue losses for CMRS carriers. AirTouch is not interested in making a high return on one call if the "byproduct of such a transaction is to lose that customer's future business, lower overall minutes of use, and undermine corporate goodwill") ("AirTouch Comments").

²⁵ As VoiceStream Wireless Corp. explains, "[r]ate information is not critical to a notification system because there are little or no incentives for carriers to charge exorbitant rates for CPP calls. CMRS CPP subscribers provide their numbers to family members, friends, and co-workers. If these individuals incur extremely high rates for calling the customer, the customer will terminate service. Rather than discourage CPP calls and risk alienating subscribers by charging their family members and close friends outrageous rates, CMRS carriers are incited to charge reasonable rates that will facilitate increased wireless usage and competition with landline networks." Comments of VoiceStream Wireless Corp. at 11-12.

consumer education and awareness campaigns will already be firmly in place and available to create informed, and thereby protected, consumers.

Moreover, the Commission should not underestimate the effect on the market of a caller's ability to refuse to complete CPP calls.²⁶ Until CMRS becomes a substitute for the wireline network, as a practical matter, callers are not without alternative means of contacting CMRS subscribers who choose the CPP option.²⁷ Home phone and work numbers, voice mail, and pagers are all viable alternative means to reach a CPP subscriber in those cases where the caller chooses not to complete a CPP call. In addition, CPP has utility for the calling party; it provides the enhanced ability to reach a party anywhere, anytime instantly. This service may be very valuable for some callers, and not for others. So long as callers have the choice to complete the call, they are not disadvantaged.

Finally, the Commission should not ignore the fact that Federal and state regulation of CPP cannot logically co-exist.²⁸ As the Florida Commission acknowledges, it is "uncertain whether additional state-specific, notification requirements could be implemented as a practical matter. Given that many wireless coverage areas cut across state lines, there may be technical

²⁶ See, e.g., Florida Commission Replies at 2 (raises concern that the caller have no option but to pay the charges assessed by a CMRS carrier and that such charges will not be reduced through competitive pressure).

²⁷ The Commission should recognize that some CMRS customers may subscribe to CPP to discourage unimportant calls. These customers select CPP services because they shift the decision concerning the value of the call from the called party to the calling party.

²⁸ This is a jurisdictional issue that CTIA explored thoroughly in its Comments and in its Opposition to the Petition for Reconsideration filed by the Ohio Commission. See CTIA Comments at 10-20; Opposition to Petition for Reconsideration of the Cellular Telecommunications Industry Association in WT Docket No. 97-207, at 10-16 (filed Oct. 4, 1999).

limitations on having different notification requirements depending on the call origination and destination points within the coverage area."²⁹ In light of this, the Commission should determine that state regulation of CPP is unnecessary and inappropriate.

3. The Commission Should Ensure That The Notification Mechanism Is Simple, Clear, and Effective.

The Commission should ensure that its regulation of CPP does not impair a carrier's ability to adopt a short, yet effective, notification message. If the Commission's regulation of the notification mechanism effectively requires a carrier to provide a detailed, lengthy message, the Commission will guarantee (1) that CMRS carriers will be unwilling to provide CPP services; and (2) that consumers will be less inclined to subscribe to CPP service offerings.

It is imperative that the Commission not attach significant obligations to the notification message. Nor should it adopt exact language, require the disclosure of the relevant charges for CPP service,³⁰ or otherwise regulate CPP rates.³¹ In other services, regulators have long sanctioned the use of simple disclosure messages that provide notice that there will be a charge,

²⁹ Florida Commission Replies at 3.

³⁰ Requiring that CMRS carriers disclose CPP rates is a public utility, monopoly carrier approach to regulation that assumes that CMRS CPP prices will remain static. In fact, in competitive markets such as CMRS, carriers offer a number of rate plans tailored to customer demand -- the same is likely to be true for CPP CMRS offerings.

³¹ See, e.g., Opening Comments of Global Wireless Consumers Alliance at 3 (advocates requiring rate/cost of the call notification); Comments of the National Telephone Cooperative Association at 2 (the uniform notification announcement should disclose total charges associated with the CPP call); Comments of MCI WorldCom, Inc. at 16 (CPP rates should be based on costs) ("MCI WorldCom Comments"); AARP Comments at 5 (Commission should cap rates for CPP calls or set up a functionally equivalent rate scheme); CPUC Comments at 13 (CMRS per-minute termination rates should not exceed originating rates).

but that do not specify per-minute charges. For example, in the wireline telecommunications market, there is no requirement on LECs providing intraLATA toll services to provide calling parties with any notification of the applicable per-minute toll charges.³² As Omnipoint notes, such charges can be relatively high; in New Jersey as high as \$.42 for the first minute and \$.12 for each additional minute. Yet, these calls have no notification requirement that informs callers in real-time the charges associated with that call. Nor do these calls have a distinctive dialing pattern (such as 1+ dialing) that may alert the caller.³³ The same can be said for most collect calls. The person responsible for the paying the charge is generally not provided with rate information in a preamble message. Rather, they are informed of the name of the carrier involved and the calling party. These services are functioning adequately without significant up-front "consumer protection" regulation. There is every reason to believe that the same will be true for CPP.

Similarly, the Commission should not require carriers to use special area codes or CPP-specific phone numbers as a means of informing consumers that they will be charged for a call.³⁴ CTIA cataloged a list of reasons why the Commission should reject such an approach in its Comments, including the negative effect that service-specific area codes will have on number

³² See PCIA Comments at 29, n. 75.

³³ Comments of Omnipoint Communications, Inc. at 3-4. It is ironic that states would permit such intrastate wireline calls without any visible "consumer protection" mechanisms such as a preamble message, yet have such a vocal opinion about the need to protect local ratepayers from a CMRS provider's CPP offering.

³⁴ See, e.g., Wisconsin Commission Comments at 4 (supports use of distinct dialing codes, including separate wireless-only area codes and "toll-free" CPP numbers); Comments of MCI WorldCom, Inc. at 10.

exhaust.³⁵ Moreover, as U S WEST explains, use of special CPP numbers is an added deterrent to CPP development because it would require CPP subscribers who decided to discontinue CPP service to change their phone numbers and to have their phones reprogrammed.³⁶ Given this, mandatory numbering obligations are inappropriate.

For CPP services the Commission would do better to adopt goal-oriented regulation as opposed to an excessively-detailed notification requirement. A detailed notification requirement that requires the use of specific language can undermine a carrier's ability to offer service as well as the CMRS customer's willingness to subscribe to CPP. Furthermore, it is absolutely essential that the Commission not mandate the direct content of the subscriber notification announcement especially because certain language may deter a CMRS customer's willingness to subscribe to CPP, especially if the notification message implies that the customer is cheap.³⁷ Instead, the Commission should set general parameters for the notification message that carriers may then tailor to specific consumer needs and concerns.

The flip-side of removing regulatory barriers is to maximize carriers' flexibility in tailoring service options that respond to consumer demand. In other words, the government's

³⁵ CTIA Comments at 21-22.

³⁶ U S WEST Comments at 16-17.

³⁷ To illustrate, if the Commission required the carrier to disclose that the "customer has chosen (or elected) to have the callers pay" for this CPP call, the CMRS customer may be less inclined to subscribe to CPP because of his concern that callers may find him cheap. See Comments of GTE at 9 ("GTE Comments"). For this reason, among others, GTE found it essential that the Commission not mandate that carriers provide CPP or require that CPP be provided in a certain way. Id. See also John Borland, CNET News.com, "New Billing for Wireless Calls," (Sep. 27, 1999) (found at <<http://abcnews.go.com/sections/tech/>>) (According to AT&T Wireless executive, "[s]ome people told us that they didn't want to use calling party pays because they didn't want to look cheap.").

role is not to pick a winner. Rather, its goal is to ensure that certain service options are not "losers" by virtue of an inappropriate level of regulation. This means that CPP should co-exist with one-rate plans, and with flat-rate plans. Maximizing consumer choice should be the regulator's primary objective. Doing so is appropriate so long as consumers are provided with the necessary information to make informed decisions, and the government is capable of responding through quick but limited intervention when warranted.

C. The Commission Should Not Mandate That LECs Provide CPP Billing And Collection Services.

CTIA has consistently maintained that it is unnecessary at this time to adopt intrusive regulations that require ILECs to provide CPP billing and collection services. The Commission decided over ten years ago to deregulate billing and collection services.³⁸ Since then, it has repeatedly rejected requests by various carriers to revisit its decision. Given this historical resistance to regulation, a decision by the Commission to mandate billing and collection services at this juncture will generate significant controversy as would any decision by the Commission to reverse its precedent, even for limited purposes.³⁹ Rather than miring CPP in a billing and collection controversy, the Commission would better serve consumers by focusing its resources on other CPP implementation issues. CTIA submits that the timely adoption of a tenable national, uniform CPP consumer notification mechanism is a much more judicious use of

³⁸ Detariffing of Billing and Collection Services, Report and Order, 102 FCC 2d 1150 (1986).

³⁹ The record already demonstrates that commenters are sharply divided on the issue of mandatory billing and collection. This controversy will only intensify if the Commission revisits its previous determination.

Commission resources. Intense scrutiny into the billing and collection issue, on the other hand, will only delay the introduction and roll-out of CPP, thereby jeopardizing its potential.

Commenter requests for mandatory LEC CPP billing and collection are not persuasive. The billing and collection market is competitive. In addition, as the record demonstrates, voluntary negotiations have resulted in beneficial CPP billing and collection arrangements between LECs and CMRS carriers. Moreover, it is entirely reasonable to presume that widespread introduction of CPP services will promote CMRS carriers' ability to enter into reasonable billing and collection arrangements similar to those currently afforded to dial-around long distance services. CTIA believes that the sole billing and collection barrier that the Commission should remove at this time is the states' ability to bar LECs outright from providing CPP billing and collection services to CMRS carriers.

1. The Billing Industry Is Competitive And Dynamic.

The billing industry is highly-competitive, with a large number of service and systems providers, both big and small, supporting wireless and wireline companies, including traditional incumbent local exchange carriers ("ILECs"), new entrant competitive LECs ("CLECs"), interexchange carriers ("IXCs"), cellular, PCS, enhanced specialized mobile radio ("ESMR"), paging, and fixed wireless local loop providers.

Overall revenues for the "billing and customer care" industry have been estimated at \$2.5 billion in 1997 (including revenues derived from LECs, IXCs and wireless carriers).⁴⁰ Revenues

⁴⁰ See "The Telecommunications Back Office: Billing, Customer Care and Non-Billing OSS," Jefferies & Company, June 1999, at 23 (citing Communications Industry Researchers, Inc.); see also W. Uzdelewics, "Amdocs Limited," S.G. Cowen Securities Corp., (Sep. 7, 1999).

for the billing industry are projected to grow to \$9.6 billion over the next five years, and to more than \$15 billion by the end of 2005.⁴¹ There is consensus that the billing industry is dynamic and evolving, with both consolidations and new entry occurring. This promotes a more efficient and customer-oriented variety of billing alternatives for both the wireless and wireline market segments.⁴²

With more than 60 billing vendors working with and for CMRS, IXC, LEC, CLEC, and other telecommunications service providers (including fixed wireless local loop, paging, and Internet provider ("IP") operators), the billing industry is competitive, and CPP providers should be free to contract with whatever billing service provider they choose. Given this marketplace condition, LECs should not be required to provide billing and collection services. Rather, LECs are obligated to provide billing name and address ("BNA") information under existing rules, which makes it possible for third parties – including CPP service providers or their agents – to perform CPP billing.

The emerging markets for billing services include wireless data applications, such as short message service (SMS), and other IP-oriented applications.⁴³ Moreover, while consolidation of some service providers has the effect of rewriting carrier-billing provider relationships, the entry of new service providers, such as CLECs, is providing opportunities for

⁴¹ See IDC Press Release on IDC's special report "Telecom Billing: An Overview of the Competitive Landscape," entitled "U.S. Telecom Billing Industry to Top \$9.6 Billion in Five Years," May 17, 1999 (located at <<http://www.idcresearch.com/Data/Networking/content/NT051799PR.htm>>).

⁴² See, e.g., Jefferies & Company, *supra*.

⁴³ See Rebecca Diamond, "Metered Billing for SMS Wireless Data Services," *Billing World*, Sep. 1999, at 23-24.

new and existing billing service providers to develop and market scaleable and specialized billing systems and services to carriers.⁴⁴

Indeed, the dynamic nature of the overall telecommunications marketplace, with wireless-wireline convergence and the convergent entry by CLECs, fixed wireless, cable and other service providers, is driving demand for new billing systems, capable of handling next generation services.⁴⁵ Thus, the prescription of specific billing parties or the regulation of billing services would interfere with the evolution of the billing marketplace. It would also destabilize the evolutionary impulse which is driving the development of new services, systems, and provider arrangements.

Analysts at A.G. Cowen and other firms have concluded that there is “strong market demand for billing and customer care products and services.”⁴⁶ Indeed, analysts consider billing and customer care strategically important competitive tools in the competitive telecommunications marketplace.⁴⁷ Given these market realities, Commission interference is unnecessary.

⁴⁴ See Dan Stone, “Quarterly Earnings Strong But Market Remains Soft,” *Billing World*, Sep. 1999, at 36 (noting views of analysts Nikos Papageorgiou and Douglas Ashton of S.G. Cowen and Jefferies & Co. on entry of 1,300 CLECs in the U.S.).

⁴⁵ See “Wireless & Convergence Carrier Billing Systems,” Technology Research Institute, at 6.

⁴⁶ W. Uzdelewicz, “Telecom Services Quarterly,” S.G. Cowen Securities Corp., Aug. 13, 1999, at 3.

⁴⁷ Id.

2. The Record Demonstrates That Mandatory Billing And Collection Is Unnecessary.

As the Commission acknowledges, regulatory intervention in the LEC-CMRS billing and collection relationship would be a serious step. Such intervention is not warranted unless there is a strong record demonstrating a clear market failure.⁴⁸ Such a record, though, does not exist. In fact, the record demonstrates that voluntary negotiations between LECs and CMRS carriers have resulted in many beneficial billing and collection arrangements.⁴⁹ As noted by GTE, "LECs are generally willing to negotiate to provide billing and collection services for any telecommunications service offered, including presumably, CPP."⁵⁰ GTE believes that to the extent that there is reluctance to perform such a task, adoption of a notification message should help to alleviate some of these concerns about consumer acceptance.⁵¹ Similarly, SBC Communications Inc. notes, "LECs should not be prohibited from providing billing and collection service for CPP should they decide to do so . . . But that should be a marketplace choice, not a regulatory requirement."⁵²

⁴⁸ Notice at ¶¶ 59, 61.

⁴⁹ See, e.g., Comments of Cincinnati Bell Telephone Company ("CBT") at 2 ("CBT has provided billing and collection services for CPP charges on behalf of both Ameritech Communications, Inc. and Airtouch Communications, Inc. since 1987"); U S WEST Comments at 20 ("U S WEST has been working collaboratively with CMRS providers for a couple of years. Some of these providers want U S WEST to bill for their CPP offerings and some do not. Our past business practice has been to bill for these services; and, at this time, we envision no business imperative that would change our past practice in any material way.") (citations omitted).

⁵⁰ GTE Comments at 33.

⁵¹ Id. at 34.

⁵² Comments of SBC Communications Inc. at 10.

Moreover, there is significant evidence that dial-around providers, who provide services similar to CPP, have been able to reach voluntary billing and collection agreements with LECs. Many dial-around services, including "10-10-321,"⁵³ "10-10-220,"⁵⁴ "10-10-275,"⁵⁵ "10-10-345,"⁵⁶ and "10-16-238,"⁵⁷ advertise that charges for the long distance service will appear on the monthly local telephone bill. The ready availability of LEC billing and collection for dial-around carriers strongly suggests that CMRS providers will be able to reach similar agreements for CPP services.⁵⁸ As explained in an Attachment to AirTouch's comments by Dr. Michael L. Katz and David W. Majerus ("Katz and Majerus"), "all ILECs currently offer services essentially identical to those required for the billing and collecting services for CPP. For example, the billing and collection services that ILECs offer to companies offering casual calling are almost identical to the services needed for CPP."⁵⁹ Katz and Majerus note that "for casual calling, ILECs charge

⁵³ See <<http://www.10-10-321.com/welcome.html>>.

⁵⁴ See <<http://www.10-10-220.com/faqs>>.

⁵⁵ See <<http://www.net-savings.net/10321/40404.htm>>.

⁵⁶ See <<http://www.10-10-345.com/faqs/faqs.html>>.

⁵⁷ See <<http://www.thedigest.com/99/99-10.html>>.

⁵⁸ As anyone who watches television knows, there are numerous advertisements for dial-around services during prime time and sporting events. In fact, according to previous AT&T estimates, the dial-around market is worth about \$3 billion. See "AT&T Creates Discount Long Distance Unit" (Oct. 6, 1998) (located at <<http://www.techweb.com/wire/story/reuters/reu19981006S005>>). It does not appear that the rates LECs are charging for billing and collection services are impairing in any tangible way the success of these services.

⁵⁹ Airtouch Comments, Attachment A, "Declaration of Dr. Michael L. Katz and David W. Majerus: An Assessment of ILEC Market Power in CPP Billing and Collection," at 8 (Sep. 17, 1999). Katz and Majerus specifically acknowledge that Ameritech, Cincinnati Bell Telephone, and U S WEST all provide CPP billing and collection services. Id.

'roughly 12 to 13 cents per invoiced call.'"⁶⁰ Similarly, Sprint Corporation indicates that, "LEC rates for casual toll billing (10-10-XXX calls) range from a low of 10 cents to a high of 20 cents per message" and that these rates may be available to CMRS carriers providing CPP.⁶¹ This evidence strongly suggests that reliance upon voluntary negotiations should not be abandoned at this juncture.

3. The Commission Should Ensure That States Do Not Prohibit LECs From Providing CPP Billing And Collection Services.

There is one area in which the Commission should intervene in the billing and collection market: the Commission should preempt any state rules that prohibit LECs from voluntarily billing for CPP.⁶² As AirTouch notes, such a prohibition is tantamount to a barrier to entry prohibited by the Communications Act.⁶³

For similar reasons, the Commission should reject the Florida Commission's request that the Commission ensure that "states have the flexibility to impose requirements governing the billing of CPP charges on wireline bills" consistent with its ability to regulate the other terms and

⁶⁰ Id. at 7 (citation omitted). Katz and Majerus also observe that one current CPP billing and collection contract with Ameritech "sets a rate of \$0.06 per CPP-billed call." Id. (citation omitted).

⁶¹ Comments of Sprint Corporation at 8.

⁶² See Ohio Commission Comments at 12 ("Ohio Commission possesses the requisite authority to preclude LECs from including in their bills for local exchange service charges from CMRS CPP service"); Comments of Washington Utilities and Transportation Commission at 4-5 (recommending that the Commission not supersede state efforts to regulate billing and collection by LECs) ("WUTC Comments"); CPUC Comments at 14-15 (billing and collection a matter of state regulation).

⁶³ AirTouch Comments at 31-36 (citing Sections 332(c)(3)(A) and 253, 47 U.S.C. § 253(a)).

conditions of CMRS.⁶⁴ The Commission's truth in billing regulations should resolve any particular concerns that states may have regarding the billing practices of CMRS carriers.⁶⁵ In effect, this argument disputes the Commission's finding that a uniform, national approach to CPP service regulation is essential, and ignores the fact that CPP offerings will transcend state lines.⁶⁶ Extraneous state regulation, though, is unnecessary and may bar CPP development.

D. The Commission Should Not Regulate Technical Issues Surrounding CPP.

Several commenters have asked the Commission to regulate certain technical matters surrounding CPP which in fact do not require Commission action. Specifically, commenters have requested that the Commission create technical and regulatory specifications for the benefit of PBX owners and payphone operators.⁶⁷ As these commenters note, there remain unresolved matters concerning CPP calls made from private PBXs and from public payphones. These issues, however, are better resolved by the industry and should not divert the Commission's attention from the purpose of this proceeding -- to remove the regulatory barriers to CPP development.

⁶⁴ Florida Commission Replies at 4.

⁶⁵ See Truth-in-Billing and Billing Format, *First Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 7492 (1999).

⁶⁶ Moreover, with the growth of CLECs, more and more calls to wireless carriers will originate on CLEC networks. Such calls generally are not governed by state billing and collection regulation.

⁶⁷ See Comments of Counsel for Ad Hoc Telecommunications Users Committee, et al., at 13 ("The Commission should implement CPP only in a manner that would permit the paying party to track and block CPP calls from its premises") ("Ad Hoc Comments"); Comments of the American Public Communications Council at 5 (the Commission "should adopt rules that unconditionally exempt PSPs from being charged for direct-dialed CPP calls.") ("APCC Comments").

The Ad Hoc Commenters along with other PBX owners are concerned about their ability to restrict calls that originate on PBX networks and to recover charges for CPP calls from the caller.⁶⁸ Although they suggest that CMRS providers are not similarly interested, this is not in fact true. CMRS providers are just as concerned, if not more so, in eliminating uncollectibles. Therefore, the industry will develop a solution to this technical obstacle found in PBXs. Commission regulation intended to address PBX leakage and blockage is unwarranted at this time.

Supporters of additional regulation to address leaky PBXs propose that the Commission adopt CPP specific area codes which could then be programmed into PBXs by their owners to restrict CPP calls.⁶⁹ The record before the Commission in this proceeding and in other related proceedings makes clear, however, that the Commission should not adopt service specific area codes for CPP. In the Numbering Resource Optimization proceeding⁷⁰ it was well established that area codes are a limited resource that should not be wasted for any purpose, including CPP. Nextel points out that in addition to area code shortages, CPP-specific area codes are at odds with the Commission's number portability policies because they would "prevent portability between wireless and wireline networks."⁷¹ Nextel also correctly notes that CPP is only a service offering and as such, "should that customer change his or her mind and desire to drop CPP

⁶⁸ Ad Hoc Comments at 4; Comments of Washington State Department of Information Services at 2 ("Washington DIS"); Comments of Lander University at 1.

⁶⁹ See Ad Hoc Comments at 15; Washington DIS Comments at 2.

⁷⁰ In the Matter of Numbering Resource Optimization, et. al., CC Docket No. 99-200, *Notice of Proposed RuleMaking*, FCC 99-122 (rel. June 2, 1999).

⁷¹ Comments of Nextel at 7.

services, he or she would, again, have to change numbers to eliminate the CPP option. Requiring consumers to change their phone number simply to add or delete a particular service option is not in the public interest."⁷² Moreover, CPP may be offered on a per-call basis by some CMRS providers utilizing AIN capabilities to distinguish between callers that the subscriber wishes to treat as CPP and others that the subscriber will pay. A unique CPP NXX code would interfere with such a service offering. Finally, the Washington Utilities and Transportation Commission opposes CPP specific area codes because they are ineffective, inconvenient, and "needlessly consume the finite resource of telephone numbers."⁷³

While not diminishing the importance of this matter, it would be regulatory overkill for the Commission to implement CPP-specific area codes to address the narrow concerns of PBX owners. Moreover, given the availability of alternative methods to protect PBX owners, it makes little sense to sacrifice limited numbering resources to PBX interests.

Some commenters also request that CMRS providers should reimburse institutions for any modifications they may choose to make to their PBXs.⁷⁴ Not only is such a request unworkable, but it is also unnecessary because PBX modifications will likely not be necessary to avoid leakage. Requiring CMRS providers to reimburse PBX operators to upgrade their networks opens a flood of issues that will only serve to delay CPP deployment.⁷⁵ Simply stated, there is no logical connection between PBX owners and CMRS providers electing to offer CPP.

⁷² Id. at 7, n.7.

⁷³ WUTC Comments at 3-4.

⁷⁴ See Joint Commenters at 44.

⁷⁵ For instance, carriers would need to determine which PBX upgrades were the result of CPP and which would have been undertaken regardless of CPP. Similarly, they would

The solution more likely lies in the network. As the comments demonstrate, there are a variety of options available in the public switched network that will ensure that PBX and payphone owners are not billed for unauthorized calls. The Commission, however, should not delay lifting CPP barriers while it contemplates the best course of action. Devising the solution to these and other technical matters should be left to the industry.

Those who know the telecommunications network best and understand its technical capabilities explain that the:

issues are not insurmountable, and indeed can be implemented relatively economically by making use of the current capabilities of the telecommunications infrastructure. Nortel further believes that the resolution of these issues should be left to the industry to address on a coordinated basis, and not simply dictated by regulatory fiat. Thus, Nortel urges the Commission to take a largely passive role with respect to the development of technical specifications.⁷⁶

Specifically, Nortel suggests that the solution to PBX leakage lies in the Line Information Data Base ("LIDB") function incorporated in the LECs' networks. LIDB is presently used, among other things, to screen collect calls to PBXs. If a PBX owner is unwilling to accept collect calls, then the call is not completed.⁷⁷ The same system can likely be applied for CPP.⁷⁸ Illuminet

need to explore which CMRS provider would pay for a particular PBX owner's upgrade. These questions are practically unanswerable because the carrier ultimately collecting for CPP service may not even be in the same city or state as the PBX owner.

⁷⁶ Comments of Nortel Networks at 2.

⁷⁷ Id. at 7-9.

⁷⁸ See U S WEST Comments at 28 ("Another way that leakage can be managed is through existing telecommunications offerings provided by carriers (LECs in particular) through which CMRS providers can determine whether a call should be processed as a CPP call or not. Information to aid the CMRS provider in making this determination resides in the LECs' Line Information Databases (LIDB). CMRS providers can query those databases,

agrees with the LIDB solution⁷⁹ and APCC offers its own suggestion,⁸⁰ both of which rely upon functionalities already built into the public switched network. The Commission can expect that the industry will devise a means to use the network's existing functionality to screen for CPP calls.⁸¹ This type of network based solution protects all parties' interests by ensuring that only calls for which charges are recoverable will be completed.⁸² Moreover, they can be implemented with existing technology without requiring PBX owners to upgrade their systems and without affecting numbering resources.

Similarly, solutions within the network are available to ensure that payphone providers are not billed for unauthorized CPP calls. APCC concludes that blocking is not a viable

secure the necessary information, and determine whether or not to process the call for 'routine' billing or require some type of alternative billing mechanism/information, such as credit card billing.").

⁷⁹ Illuminet contends that "[b]y examining the Originating Billing/Service Indicators (information that already exists in most of or all of the domestic LIDBs today) or by reviewing additional codes provided in the [Originating Line Number Screening] query response to support CPP, the wireless carrier would be able to determine whether the originating station is not a billable station (e.g., a public paystation) and elect not to complete the call or provide the caller a workable alternative billing option." Comments of Illuminet at 3-4.

⁸⁰ APCC contends that Flex ANI service should be made available to CMRS providers free of charge. Flex ANI provides unique payphone specific coding digits to ensure appropriate CPP billing for payphone originated calls. APCC Comments at 6-8.

⁸¹ Nortel Comments at 8 ("[I]t is clear that the LIDB database system is technically capable of screening for the acceptability of CPP (analogous to Collect) charges This solution provides protection to the PBX owner from improper CPP billing and would do so without requiring additional capital investment on their part to achieve this protection, because existing PSTN functionality would be used.").

⁸² GTE concludes that "[u]se of an AIN-based methodology is an effective means for eliminating leakage and offers a cure to many of the customer perception problems associated with switch-based CPP." GTE Comments at 10.

alternative for payphone operators and instead suggests that the Commission require CMRS providers to utilize FLEX ANI.⁸³ Commission intervention, however, is not necessary because CMRS carriers, working with payphone operators, will likely develop the best means for ensuring that CPP calls are not charged to payphone operators erroneously. Whether it is Flex ANI or another solution, it is in the industry's best interest to fill in the gaps to the collection of CPP charges. As a result, it is not a matter that presently requires Commission resolution.

E. The Commission Should Not Impose Reseller Switch Interconnection Obligations On CMRS Providers.

Interests supporting wireless resale have asked the Commission to revisit its inquiry into direct reseller switch interconnection. This is a matter that has been subject to extensive public comment in a separate proceeding.⁸⁴ Nothing in this proceeding warrants a revision of the present regulations. Although MCI WorldCom and the Telecommunications Resellers Association ("TRA") contend that "[p]ermitting interconnection would allow resellers to provide CPP without the involvement of the underlying carrier,"⁸⁵ their true purpose is to impose additional interconnection obligations on CMRS providers. They simply use CPP as a Trojan horse to get there. This is borne out by their ultimate conclusions. MCI WorldCom reveals its true intentions when it urges that, "whatever decision is made in CPP, the Commission at minimum [should] leave open the option of a more robust direct connection between resellers

⁸³ APCC Comments at 6.

⁸⁴ Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, *Second Notice of Proposed Rule Making*, 10 FCC Rcd 10666 (1995) ("CMRS Interconnection Second Notice").

⁸⁵ Comments of the Telecommunications Resellers Association at 10 ("TRA Comments"); MCI WorldCom Comments at 4.

and CMRS licensees."⁸⁶ Similarly, TRA reveals its position that "[i]nterconnection would enable wireless resellers to provide a number of innovative and competitive service offerings, in addition to [CPP]."⁸⁷

Reseller switch co-location is not within the scope of this proceeding. CTIA reiterates its opposition to a Commission-imposed mandate for reseller switch interconnection. CTIA has explained previously that because no CMRS firm possesses the requisite ability to exercise market power or maintain control over essential facilities, the Commission is required to refrain from regulating direct CMRS interconnection.⁸⁸

The Commission recently reiterated that its resale rules for CMRS providers are scheduled to sunset in three years.⁸⁹ Imposing a costly interconnection obligation for a short period of time would not serve the public interest.⁹⁰ Ultimately, this issue is unrelated to CPP. Thus, CPP should not be used as a guise by resellers to achieve through this proceeding that which they have failed to prove in a more relevant forum.

⁸⁶ MCI WorldCom Comments at 4.

⁸⁷ TRA Comments at 10.

⁸⁸ See Reply Comments of the Cellular Telecommunications Industry Association in CC Docket No. 94-54, at 3-7 (filed July 14, 1995).

⁸⁹ Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, Memorandum Opinion and Order on Reconsideration, FCC 99-250 (rel. Sep. 27, 1999).

⁹⁰ See id. at ¶ 39 (concluding that "because the resale rule will sunset for all carriers in three years and the difference in treatment is only for a transitional period, eliminating the resale rule immediately for smaller C, D, E, and F block PCS licensees accords with the Commission's two primary objectives in imposing a resale rule").

III. CONCLUSION

For these reasons, CTIA respectfully requests that the Commission act quickly to remove regulatory barriers to wireless carrier provision of CPP services consistent with the proposals made herein and in its initial Comments.

Respectfully submitted,

**CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION**

/s/ Michael F. Altschul

Michael F. Altschul
Vice President, General Counsel

Randall S. Coleman
Vice President for Regulatory Policy and Law

1250 Connecticut Avenue, N.W., Suite 800
Washington, D.C. 20036
(202) 785-0081

Its Attorneys

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