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May 17, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St., SW
Washington, D.C. 20554

**NOTICE OF EX PARTE
PRESENTATION**

Re: **CC Docket No. 96-128 (Remand of Inmate Service Issues)**

Dear Ms. Salas:

As requested by the staff, we are providing on behalf of the Inmate Calling Service Providers Coalition some additional information (attached) regarding the issue of bad debt (uncollectables and unbillables) and inmate telephone service.

Sincerely yours,



Robert F. Aldrich

cc: Yog Varma
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BAD DEBT — UNCOLLECTABLES AND UNBILLABLES

Prepared by the Inmate Calling Service Providers Coalition

May 2000

One of the most significant issues for inmate telephone service providers is “bad debt” – charges that the inmate service provider is unable to collect. The levels of bad debt from inmate calling run several times higher than for telephone services generally (or even collect calling services). There are two major sources of inmate bad debt. First, there are calls to legitimate numbers that the inmate service provider is unable to bill because the number is served by a competitive local exchange carrier (CLEC) instead of the LEC with whom the inmate service provider has a billing arrangement. This type of bad debt is referred to as “unbillables.” Second, there are “uncollectables,” which are calls the inmate service provider cannot collect due to the called parties’ inability or unwillingness to pay. Data supplied by two major billing clearing houses serving the inmate service industry indicates that inmate service provider bad debt can be 30 percent or higher as a percentage of total charges.

Bad Debt and Illegal Subsidies

The extraordinary level of bad debt in inmate telephone service exacerbates the illegal subsidies resulting from the misclassification of inmate telephone service as a “regulated” telephone exchange service for purposes of Section 276(a) of the Act.

Because the Commission did not classify inmate telephone service as a “nonregulated” service for which costs and revenues must be segregated to prevent subsidy, the ILECs do not segregate bad debt associated with their inmate service operations from bad debt associated with regulated services. As a result, ILEC inmate

calling service operations do not have to account for their own bad debt. For example, in responding to a jail request for proposal (RFP), in response to the typical question “Provide your company’s monthly average bad debt percentages for the last 24 months,” Bell Atlantic responded: “As the major telephone company of Virginia, there is no bad debt percentage to provide.”

In essence, the receivables associated with ILEC inmate service are commingled with other ILEC receivables, and so are the associated uncollectables – as well as the associated costs for network usage, LIDB validation, and billing and collection. For independent inmate service providers, by contrast, unbillables and uncollectables are charged back directly to the inmate service provider, who must “eat” the associated costs. Because bad debt is so much higher for inmate service than for other services, these lost revenues and “eaten” costs are a major factor in determining the inmate service’s profitability. But in the ILEC’s inmate service operation, the extra costs resulting from inmate service bad debt are absorbed by regulated ratepayers, rather than charged to the inmate service operation. **The ILECs’ regulated operations assume the burden of the receivable, and also assume the burden of all the underlying costs including validation, transmission, processing, and billing expenses associated with generating the receivable.** As a result, the subsidies prohibited by Section 276 are allowed to continue, and the ILEC inmate operations have a major competitive advantage vis-à-vis their independent competitors.

Bad Debt and Discrimination: Code 50 Rejects

The discussion above illustrates how the high level of bad debt in inmate service exacerbates the illegal subsidies resulting from the misclassification of inmate telephone services. The bad debt issue also exacerbates the problem of illegal discrimination resulting

from that misclassification due to the unequal access of ILECs' and independents' inmate services to information necessary to prevent unbillables and fraud. One important example of this concerns "Code 50 Rejects." Currently, the call validation database ("LIDB") on which independent inmate service providers must rely provides no indication that a called party has changed telephone companies from an incumbent LEC to a CLEC. If the called number validated properly as a billable number before the change, it continues to do so. As a result, the independent inmate service provider has no way of knowing that it should not continue to complete calls to the number under the assumption that the ILEC will bill the call. In this context, the inmate service providers are paying their ILEC competitors for a LIDB product that does not work. Assuming that the number is served by the ILEC, the independent provider then sends its call detail record to the ILEC for billing. As long as a few days to weeks to months later, the ILEC reports the call as unbillable. Many inmates are aware of this situation, and it is not uncommon for them to instruct their families to subscribe to service from CLECs knowing that they can receive several weeks' worth of free calls.

Even once the ILEC reports the call as unbillable, the only explanation given is that the call is a so-called "Code 50 Reject," *i.e.*, a number that is unbillable because it is served by a different LEC. The independent provider usually receives no information as to which CLEC serves the number. The independent provider has no way to get the billed party's name or address and thus has no way to bill the call, and must write it off as bad debt. As noted above, since independent providers pay the LEC for validation, local measured service or access charges, processing, and billing and collection, the independent provider continues to incur considerable costs for each call made to the number, even though none of the calls are billable.

The Code 50 Reject problem is a clear example of discrimination because the ILECs do have additional information that they use exclusively to benefit their own inmate service operations. The ILECs have timely access to internal databases of numbers they have ported to CLECs in their area and are able to avoid completing inmate service calls to those numbers if such calls are likely to be unbillable.

Solutions

To address ILEC subsidies and discrimination, the Coalition is asking the FCC to make it clear that not only premises equipment, but also the inmate telephone service itself, must be segregated from regulated accounts. Independent inmate service providers must have access to the same ILEC services, and on the same terms, as the ILEC's own inmate service operation. For example, **the ILECs must segregate inmate service bad debt from regulated service bad debt and enter inmate service bad debt in their "nonregulated" accounts.**

The ILECs must make available critical account and fraud control information to independent inmate service providers on the same basis they make it available to their own inmate service operation. **The ILECs must make available, on a timely basis, to independent inmate phone service providers the databases of numbers ported to CLECs. In addition to the timely receipt of ported numbers, the ILECs treatment of Code 50 Rejects must be the same for independent inmate phone service providers as it is for their own inmate telephone service.**