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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**BY COURIER**

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
Portals II
445 Twelfth Street, S.W.
Suite TW-A325
Washington, D.C. 20054

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

Dear Ms. Salas:

Enclosed for filing in the above-captioned matter, please find original and four copies of COMMENTS OF THE INTERNATIONAL PREPAID COMMUNICATIONS ASSOCIATION ON PETITIONS FOR RECONSIDERATION AND/OR CLARIFICATION.

Also, please date-stamp the enclosed duplicate copy and return via the courier for our records.

Very truly yours,

Glenn B. Manishin

Cc: Carmel Weathers
Common Carrier Bureau
Network Services Division

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
| | ) | |
| The Pay Telephone Reclassification And Compensation Provisions of The Telecommunications Act of 1996 | ) | CC Docket No. 96-128 |
| | ) | |
| RBOC/GTE/SNET Payphone Coalition Petition for Clarification | ) | NSD File No. L-99-34 |

# COMMENTS OF THE INTERNATIONAL PREPAID COMMUNICATIONS ASSOCIATION ON PETITIONS FOR RECONSIDERATION AND/OR CLARIFICATION

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Dated: October 9, 2001

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COMMENTS OF THE
INTERNATIONAL PREPAID COMMUNICATIONS ASSOCIATION
ON PETITIONS FOR RECONSIDERATION AND/OR CLARIFICATION

The International Prepaid Communications Association ("IPCA"), by its attorneys and pursuant to the Commission's August 20, 2001 *Public Notice*,[1] submits these comments in opposition to the various petitions for declaratory ruling, reconsideration and/or clarification of the Commission's *Second Order on Reconsideration*[2] regarding payphone compensation in the above-captioned docket.

## INTRODUCTION AND SUMMARY

AT&T and WorldCom, among others,[3] ask that the Commission reconsider or clarify the *Second Order on Reconsideration* in order to permit them to pay compensation to payphone service providers ("PSPs") "for all calls that are sent to a switch-based reseller's switching plat-

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[1] *Common Carrier Bureau Seeks Comment On Petitions For Declaratory Ruling, Reconsideration and/or Clarification of the Payphone Compensation Second Order On Reconsideration,* NSD File No. L-99-34, DA 01-1967 (rel Aug. 20, 2001) ("*Public Notice*"). Comments are due 30 days after publication in the Federal Register.

[2] *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Second Order on Reconsideration, FCC 01-109 (rel. Apr. 5, 2001) ("*Second Order on Reconsideration*").

[3] AT&T Petition for Clarification and/or Reconsideration (filed May, 29, 2001) ("AT&T Petition"); WorldCom, Inc. Petition for Declaratory Ruling and Petition for Clarification (filed May 29, 2001) ("WorldCom Petition"); Global Crossing Petition for Reconsideration and Clarification (filed May 29, 2001) ("Global Crossing Petition").

form, regardless of whether such calls are completed."[4] IPCA urges the Commission to reject these proposals. Each of the petitions requests a change to — not a merely a "clarification" of — settled Commission policy that runs contrary to both the plain language of the 1996 Act and the purposes of the Commission's payphone compensation rules. Seeking an expedient means for implementing the new "first-switch-pays" scheme of the *Second Order on Reconsideration*,[5] the petitions in fact propose that the Commission reverse its long-standing rule that payphone compensation is owed only on calls that are "completed" to the end user.[6] Such a result would not only contravene the explicit provisions of Section 276, but would discriminate against pre-paid resellers and provide a wholly unearned windfall to PSPs and certain facilities-based inter-exchange carriers.

The AT&T/WorldCom proposal would generate substantial unearned revenue for PSPs while simultaneously forcing resellers to pay double or triple the amount of PSP compensation that is required. In fact, WorldCom has already unilaterally implemented a policy of charging its switch-based reseller ("SBR") customers full PSP compensation on all payphone calls that reach its network, regardless of completion.[7] This practice necessarily imposes a *de facto* prohibition on resellers' use of third-party industry clearinghouses to administer and verify their payphone compensation liability, despite the Commission's express holding in the *Second Order on Reconsideration* that reseller-PSP compensation arrangements are not disturbed under the new rules.[8] IPCA therefore urges the Commission to reiterate that switch-based resellers may rely on

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[4] *Public Notice* at 1.

[5] *Second Order on Reconsideration* ¶ 2; 47 C.F.R. § 64.1300(a).

[6] WorldCom Petition at 2-4; Global Crossing Petition at 3-8.

[7] *See* Exhibit A to Pre-Complaint Mediation Letter from Howard Segermark, IPCA, to Lisa Griffin, Assistant Chief, Enforcement Bureau (filed October 1, 2001)

[8] *Second Order on Reconsideration* ¶ 18.

existing and future contractual arrangements, including industry clearinghouses, in order to satisfy their PSP compensation obligation.

Global Crossing, in contrast, asks merely that the Commission "establish a specific timing surrogate for determining whether a particular call is completed, and therefore compensable."[9] IPCA appreciates this recognition that only completed calls are compensable under the 1996 Act. We do not oppose timing surrogates in principle, yet it is difficult to fashion timing surrogates that accurately reflect the actual working of different telecommunications networks and thus reliably measure call completion, especially in the international context served by many prepaid carriers. What is clear is that *some adjustment to all calls delivered by a facilities-based carrier to an SBR is necessary to reflect only completed, and thus compensable, payphone calls.* IPCA therefore believes that the Commission should adopt rules requiring interexchange carriers ("IXCs"), in the absence of direct or clearinghouse arrangements for payment of PSP compensation, to compute compensation based on data provided by its SBR customers indicating the number of completed calls, *i.e.,* an SBR-reported percent-completed-calls factor ("PCC"), that is subject to audit, verification and penalties for noncompliance. This method, which is more easily administrable while less apt to result in overpayment, will better ensure that PSPs are fully compensated in the manner prescribed by Congress.

## DISCUSSION

IPCA has participated extensively in the Commission's formulation of PSP compensation rules since 1996. As the largest association of prepaid communications providers in the world, IPCA has a direct interest in helping the Commission ensure that PSP compensation is administered efficiently and fairly. IPCA has expressly acknowledged Congress's mandate in Section 276 that payphone owners be compensated for the use of their facilities, and has never sought to

modify or evade the PSPs' right to fair compensation for "each and every completed call" originating from payphones.[10]

As the Commission is aware, IPCA (then known as the International Telecard Association) opposed reconsideration of the historical "last-switch pays" rule on the ground that such requests were untimely, unnecessary and disruptive to the industry.[11] Nonetheless, the Commission earlier this year adopted a "first-switch pays" rule, whereby the carrier owning the first switch in a payphone call is responsible for (1) compensating the PSP, (2) tracking the call to determine completion, and (3) providing PSPs with a call record/billing statement that reconciles completed calls with the amount of compensation remitted.[12] These rules effect a fundamental shift in the PSP compensation regime and have resulted in a good deal of industry confusion.[13]

The reconsideration petitions now before the Commission in large part illustrate the turmoil caused by the new PSP compensation mechanisms required under the *Second Order on Reconsideration*. Some IXCs, principally WorldCom and AT&T, have determined that compliance with the new rules requires them to assume total control over the compensation obligations of switch-based resellers because, as the first IXC, they cannot alone track whether payphone calls are completed by SBRs. AT&T also proposes modification of its call-tracking obligations in light of this problem.[14] As IPCA will explain, the Commission should act to ameliorate the

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[9] *Public Notice* at 2.

[10] To the extent, however, that IPCA perceives that the mechanisms adopted for compensation of PSPs has resulted in unreasonable and discriminatory treatment of its members , however inadvertent, it has urged the Commission to revisit its rules to prevent or ameliorate such treatment. The instant reconsideration phase of the *Second Order on Reconsideration* presents such a situation.

[11] CC Docket No. 96-128, Comments of the International Telecard Association in Opposition to Reconsideration (filed May 17, 1999).

[12] *Second Order on Reconsideration* ¶ 2.

[13] *See* Global Crossing Petition at 6 (new rules have created "controversy between underlying carriers"). Sprint has filed for appellate review of the *Second Order on Reconsideration* in *Sprint Corp. v. FCC*, Case 01-1266 (D.C. Cir.), but its petitions for stay have been denied by both the Court of Appeals and the Commission.

[14] AT&T Petition at 4-7.

IXCs' tracking concerns, as well as the severe harm that their proposed implementation will cause, by reaffirming the right of resellers to continue to administer PSP compensation on their own through direct and third-party clearinghouse arrangements with PSPs. Alternatively, the Commission should require IXCs that cannot or will not accept call detail records from their SBR customers to calculate payphone call completion based on a PCC factor, instead of paying PSPs for all calls, whether or not completed, that they hand off to resellers. If the Commission does not address these issues, the *Second Order on Reconsideration* will have a disastrous effect on the prepaid carrier and reseller industries that it surely never intended.

## I. ASSESSING PSP COMPENSATION ON ALL PAYPHONE CALLS, REGARDLESS OF WHETHER COMPLETED, VIOLATES SECTION 276 AND THE COMMISSION'S RULES

Section 276 of the 1996 Act requires the Commission to ensure that "payphone service providers are fairly compensated for each and every *completed* intrastate and interstate call using their payphone." 47 U.S.C. § 276(b)(1)(A) (emphasis supplied).[15] In implementing this mandate, the Commission determined that a completed call "is a call that is answered by the called party."[16] The Commission has not changed its position since its adoption of the *First Payphone Compensation Order*. No call can be considered completed unless the call is answered by the called party, not an intermediate switch.

WorldCom and AT&T now propose that, in order to permit an expedient method of calculating PSP compensation, they should be permitted to pay PSPs for any SBR payphone call

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[15] *See* 47 C.F.R. § 64.1300.

[16] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, Report and Order, 11 FCC Rcd. 20,541, 20,573 (1996) ("*First Payphone Compensation Order*").

that reaches the IXC switch, regardless of whether the call is actually completed.[17] Not only is this proposal flatly in violation of Section 276 and Commission Rule 64.1300,[18] it works substantial and unreasonable discrimination against resellers. Although WorldCom and other IXCs can track for themselves calls that terminate to their own customers, and thus calculate precisely the number of compensable calls they owe to PSPs, the proposed change would simply assume that all calls handed off to a reseller's network are "complete" and force resale carriers to pay compensation on all of those calls. This result patently discriminates against resellers in violation of Section 202 of the Act.

Further, WorldCom's proposal imposes on resellers a Hobson's choice of whether to reimburse PSPs for every 800 call or risk being denied service by the underlying IXC for non-payment. As such, it violates the precept of Section 201 that "[a]ll charges, practices, classifications, regulations" of common carriers must be just and reasonable.[19] This result could not have been intended by the Commission when it adopted the *Second Order on Reconsideration.* Therefore, the Commission should take this opportunity to expressly hold that calls sent to a switch-based reseller's switching platform by a facilities-based IXC are *not* compensable to PSPs "regardless of whether such calls are completed." In addition, as IPCA has advised the Commission's Enforcement Bureau,[20] WorldCom has already implemented its PSP compensation policy, without awaiting Commission review or approval of its requested declaratory ruling.

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[17] *See* WorldCom Petition at 2-3. *See also* Pre-Complaint Mediation Letter from Howard Segermark, IPCA, to Lisa Griffin, Assistant Chief, Enforcement Bureau (filed October 1, 2001) ("Pre-Complaint Mediation Letter").

[18] This policy is also in violation of the rules of several state commissions. For example, the Texas Commission has adopted rules prohibiting the collection of PSP compensation for uncompleted calls occurring within the state. Texas P.U.C. § 26.344(d)(1)(G).

[19] 47 U.S.C. § 201(b).

[20] *See* IPCA Pre-Complaint Mediation Letter, *supra* note 17.

The Commission should therefore act promptly to restrain WorldCom's unlawful conduct pending its decision on the instant petitions.

## II. THE COMMISSION CANNOT AND SHOULD NOT MODIFY THE DEFINITION OF COMPLETED CALLS AS PROPOSED BY WORLDCOM

Concurrent with its new PSP compensation policy, WorldCom now seeks, after the fact, a significantly modified definition of a completed call to justify its paying PSPs for all 800 payphone calls. WorldCom's proposal would revise the definition of a completed call to "one that is either completed on the underlying carrier's network, or one that is handed off to its SBR customers."[21] This proposed amendment is unlawful, unnecessary and discriminatory.

Congress requires in Section 276 that PSPs be compensated for *completed* payphone calls.[22] The definition of a completed call is, and has remained since 1996, a call that is answered by the called party.[23] This definition remains the only sensible interpretation of Section 276, as it has been the Commission's policy since passage of the 1996 Act that PSP compensation obligations should only apply to those who reap economic benefit from payphone calls.[24] And because carriers (including SBRs) are legally precluded from charging customers for payphone calls that do not reach a called party,[25] to now make compensable a call for which resale carriers cannot charge end users would create a regulatory anomaly in the payphone industry. Finally, the *Second Reconsideration Order* reasoned that it would be more efficient, and would increase the likelihood of PSPs receiving payment for compensable payphone calls, to move the compensation obligation from SBRs back to the first facilities-based carrier. This rationale,

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[21] WorldCom Petition at 4.

[22] 47 U.S.C. § 276(b)(1)(A).

[23] *First Payphone Compensation Order*, 11 FCC Rcd. at 20,573.

[24] *First Payphone Compensation Order*, 11 FCC Rcd. at 20,574.

[25] Section 226 of the Act, entitled the Telephone Operator Consumer Services Improvement Act, or "TOCSIA," prohibits carriers from billing end users for unanswered payphone calls. 47 U.S.C. §§ 226(b)(F), (G).

however, clearly does not justify overriding the 1996 Act and creating a PSP windfall for uncompleted calls. For these reasons, WorldCom's proposal should be rejected.

In addition, however, the Commission must consider the anticompetitive effect that a change in definition will cause to resellers. Making any 800 call that either is terminated on an IXC's network or switched to an SBR compensable will significantly increase PSP compensation liability for resellers, but not for the underlying facilities-based carriers. WorldCom and other IXCs that own and control the initial facilities transporting payphone-originated calls retain the ability to track their own payphone calls to determine completion. Indeed, because under WorldCom's definition any call that is completed *"or* handed off to an SBR" is compensable, facilities-based IXCs would avoid paying for their own customers' uncompleted calls, but would force resellers to pay for every payphone-originated call, both completed and uncompleted.

This discriminatory impact is clear and pronounced. The WorldCom approach would harm SBRs and other resellers while not affecting, and indeed augmenting, IXCs' own revenues from payphone calls. This is because (1) WorldCom and other IXCs can track and pay only on completed calls for their own services, and (2) WorldCom and other IXCs would be recovering all PSP compensation for reseller calls from their SBR customers. Because many IXCs charge resellers more than the Commission-approved payphone compensation rate for payphone calls, this IXC policy actually represents a new profit opportunity for facilities-based resellers, rather than a means of complying with the *Second Order on Reconsideration.* Moreover, so long as the IXCs' payphone compensation remains due quarterly, their practice of billing reseller customers monthly will result in a substantial cash flow premium for IXCs. At the very least, the Commission should clarify that under the *Second Order on Reconsideration,* IXCs may not bill resellers

for payphone compensation charges in advance of, or more frequently than, their own obligation to pay PSPs.

The Commission should not put its imprimatur on these IXCs' practices by accepting WorldCom's proposed definition change. Rather, the Commission should affirmatively reiterate that only completed calls are compensable under Section 276. This would not only quell the uncertainty resulting from the *Second Order on Reconsideration*, but also protect resellers from the discriminatory PSP compensation policies currently being forced upon them by IXCs.

## III. THE COMMISSION SHOULD REAFFIRM ITS HOLDING THAT RESELLERS MAY RELY ON PRIVATE CONTRACTUAL ARRANGEMENTS WITH PSPs , INCLUDING THROUGH THIRD-PARTY CLEARINGHOUSES, FOR PAYMENT OF PSP COMPENSATION

In their haste to implement the *Second Order on Reconsideration*, several major IXCs have unilaterally implemented a policy that requires resellers to remit all PSP compensation through them, in the manner that they unilaterally choose.[26] This approach virtually precludes resellers from relying on existing contractual relationships with either PSPs or third-party telecommunications industry clearinghouses in order to comport with their compensation obligations. Although nothing in the Commission's rules would require such a policy, and in fact the *Second Order on Reconsideration* discourages it,[27] carriers such as WorldCom have apparently concluded that only by taking full control over the compensation obligations of resellers can they ensure compliance with Commission rules. As a result, resellers are being forced to sever their existing relationships with PSPs and clearinghouses or risk being blocked from using IXC facilities.

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[26] WorldCom and other IXCs adopting this position have once again acted unilaterally, well prior to the date by which the Commission requires compliance with the *Second Order on Reconsideration*. "Carriers are required to comply with the rules by November 23, 2001." *Public Notice*, at 2.

[27] *Second Order on Reconsideration* ¶¶ 18-19.

Providing PSP compensation through third-party clearinghouses causes no more burden to PSPs than does the present system. Since 1996, resellers have used clearinghouses to track their call detail records ("CDRs") against the call tracking data provided by IXCs and remit PSP compensation to payphone owners. Likewise, PSPs routinely use third-party clearinghouses for purposes of their own billing arrangements with local exchange carriers. This system is widely used throughout the industry, especially by IPCA members, and has provided a reliable means of administering many forms of inter-carrier financial obligations, not just PSP compensation.

The Commission's change to a first-switch-pays scheme provides no cause to disturb the use of clearinghouses to implement payphone compensation. Since the Commission has previously ruled that facilities-based IXCs have an obligation to identify their customers' 800 numbers to PSPs, payphone owners would face no increased risk under a clearinghouse alternative to direct payment arrangements. Indeed, the same transactional efficiency rationale underlying the *Second Order on Reconsideration* applies as well to SBRs; neither PSPs nor resellers should be required to enter into hundreds of individual contracts for payphone compensation purposes.

IPCA thus requests that the Commission reiterate its holding that it does not "intend to nullify private contractual arrangements to which PSPs have already agreed."[28] The Commission should expressly state that third-party clearinghouse arrangements for payment of PSP compensation are valid under the "first-switch-pays" scheme adopted by the *Second Order on Reconsideration*, so long as resellers do not shirk their compensation obligations. Unless the Commission provides this guidance, resellers may face wide scale rescission of their contracts with PSPs and be forced into abdicating all control over their compensation liability to the IXCs, whose recent policies demonstrate that their principal concern is the administration the PSP compensation in a manner that maximizes their own convenience and profits.

## IV. TIMING SURROGATES ARE AN UNFAIR AND INFEASIBLE METHOD OF PREVENTING OVERCOMPENSATION FOR PAYPHONE CALLS

Global Crossing requests that the Commission adopt timing surrogates as a "bright-line" test for calculating PSP compensation.[29] Though it recognizes that the Commission considered and expressly rejected timing surrogates,[30] Global Crossing argues that now, because of "controversy between underlying carriers," the Commission should reverse that decision.[31]

IPCA does not object in principle to the use of timing surrogates. It is clear that, absent some adjustment to reflect uncompleted payphone calls, payment of compensation to PSPs will create a financial windfall for payphone owners. However, timing surrogates require the Commission to make several fundamental assumptions about payphone calls, especially dial-around calls, that in effect bear little relation to market realities.[32] First, it must assume that every dial-around and prepaid card user is equally quick in entering PIN codes and the like. Second, it must assume that all payphone calls are transported, switched to a terminating local exchange carrier and answered in the same number of seconds. Third, and most importantly, it must assume that both interexchange and local exchange networks are equally efficient throughout the United States and the world. This last assumption is particularly implausible in the case of international dial-around prepaid calls, of which the members of IPCA predominantly supply. As the Commission is aware, prepaid calling cards realize a substantial proportion of their sales to the immigrant and minority communities as a cost-effective method for placing international calls.

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[28] *Second Order on Reconsideration* ¶ 18.

[29] Global Crossing Petition at 6.

[30] *First Payphone Compensation Order*, 11 FCC Rcd. at 20,574.

[31] Global Crossing Petition at 6.

[32] Thus, it is difficult to conclude that timing surrogates are today any more justifiable than when the Commission first rejected their application to payphone compensation in 1996. "[A]n agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance." *Motor Vehicle Manufrs. Ass'n of the U.S. v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29, 42 (1983).

Different networks handle payphone calls differently. Thus, call completion times vary significantly from payphone to payphone and carrier to carrier. Differences between domestic networks and foreign networks increase this problem tenfold. This fact is especially true for prepaid carriers, where completion can take up to two minutes. These carriers, which provide a valuable product to a demonstrably under-served population, would be severely disadvantaged were the Commission to determine that a 25-second call is "completed" for Section 276 purposes.[33] For some carriers, this rule would double or even triple PSP compensation liability — a cost that they can neither lawfully pass through (*see* Section II, *supra*) nor absorb.

It is difficult if not impossible to fashion timing surrogates that reliably account for differences among networks and carriers. In fact, even among its members IPCA cannot obtain consensus on a workable call length to adopt as a surrogate for call completion. For these reasons, the Commission will be hard-pressed to choose a timing surrogate that can be rationally defended as sensible and fair. While it applauds Global Crossing's recognition that only completed calls should be compensable to PSPs, IPCA therefore suggests that the Commission reject the timing surrogate proposal in favor of a more administrable alternative, described below.

## V. TO PREVENT A COMPENSATION WINDFALL FOR PSPs, THE COMMISSION SHOULD ADOPT RULES PERMITTING A PERCENT-COMPLETED FACTOR FOR PAYPHONE CALLS

IPCA acknowledges the difficulty that facilities-based IXCs face in attempting to calculate, on their own, the number of compensable calls completed by SBRs and other resellers. Facilities-based carriers are generally unable to follow a payphone call to completion (*i.e.*, to receive answer supervision) as it travels across multiple switches and is terminated by an SBR. Yet this difficulty does not support the decision by IXCs to classify all calls handed off to

[33] Global Crossing Petition at 7.

switch-based reseller customers as completed. Just as IXCs track their own payphone-originated calls, so do SBRs. Neither AT&T nor any other IXC has sought to demonstrate that exchange of CDR information (detailing called numbers and elapsed call time, among other things) with switch-based resellers would present any logistical difficulty in their tracking of completed SBR payphone calls.

A superior alternative to permitting IXCs to impose payphone compensation obligations on all SBR calls is to require IXCs to accept a calculation of each switch-based reseller's call completion percentage, calibrated according to the carrier's actual call volume, subject to audit and verification by the PSPs. This percent-completed-calls ("PCC") method of calculating PSP compensation is less brutish and more precise than timing surrogates, and would better ensure that PSPs are properly compensated for all calls. If a PSP and an SBR do not use a third-party clearinghouse or other direct compensation arrangement, then the IXC would make its quarterly payphone compensation payments based on the PCC factor supplied by its SBR customer.[34]

A PCC factor presents a workable solution for several reasons. *First,* it more accurately reflects the PSP compensation liability of resellers because it is based on their actual market experience rather than theoretical call lengths. Thus, it is less likely to result in overcompensation than timing surrogates.

*Secondly,* it can easily be calibrated and tracked to each carrier, which protects against a disparate impact as between domestic and international resellers. IPCA envisions the system to work as follows. Each reseller will calculate its average call-completion rate for the applicable period. The reseller will then notify the underlying facilities-based IXC what that average is. The IXC will remit to the PSP quarterly a gross sum of compensation representing that percent-

age of calls out of the total volume of calls for its SBR customers that reach the IXC switch. This system is no more complex or burdensome than the present regime, and would in fact be more easily administered.

*Finally,* a PCC factor is more easily identified and verified than call completion length, which affords PSPs the ability to audit resellers' compensation liability. IPCA suggests that each reseller's PCC factor be subject to audit, by PSPs or IXCs, in order to prevent deliberate under-payment of PSP compensation. The call data provided by resellers can in large part be checked against the call tracking data that IXCs already provide to PSPs, significantly relieving the burden of the audit process. Importantly, IPCA proposes that any reseller which refuses a PSP request for audit would result in revocation of that carrier's right to rely on the PCC mechanism, with the payphone compensation obligation reverting to the facilities-based IXC. Thus, SBRs that refuse or fail a PSP audit could be required to pay PSPs for all payphone calls handed off by the IXC. This is obviously a powerful financial incentive for SBR compliance.

By adopting the call-completion factor method of PSP compensation, however, the Commission will prevent PSPs and IXCs from reaping a substantial monetary windfall to the detriment of resellers. Further, it empowers SBRs and other resellers to accurately calculate payphone compensation, rather than absolving facilities-based IXCs of any obligation to monitor call completion for purposes of their SBR customers' payment responsibilities. IPCA suggests that this regime will be more transparent, less prone to discrimination and more closely in keeping with Section 276 than timing surrogates, and urges the Commission to give it meaningful consideration.

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[34] In keeping with the Commission's market-based approach to payphone compensation, IXCs and their SBR customers should remain free to negotiate other arrangements for the exchange of call completion tracking information and related mechanisms for payment of PSP compensation on completed payphone calls.

## CONCLUSION

For all these reasons, the Commission should (a) reject WorldCom's proposal to amend the definition of compensable calls; (b) expressly reaffirm its holding that resellers retain the right to establish and maintain private contractual relationships with PSPs, including through third-party clearinghouses, for payment of PSP compensation; (c) reject timing surrogates as a method of determining compensable calls; and (d) adopt rules permitting resellers to reimburse facilities-based carriers (quarterly or as frequently as the IXC is obligated to pay PSPs) for pay-phone calls, in the absence of a direct PSP or clearinghouse arrangement, based on a percent-call-completed factor that is subject to PSP audit and verification.

Respectfully submitted,

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Dated: October 9, 2001