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Via Electronic Mail Delivery

Ms. Dorothy Attwood, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Mr. Thomas J. Sugrue, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: *Written Ex Parte Communication*
*Wireless Access Charges – WT Docket No. 01-316***

Dear Ms. Attwood and Mr. Sugrue:

Sprint Corporation, on behalf of its wireless division, Sprint Spectrum L.P., d/b/a Sprint PCS (“Sprint”), responds to the ex parte letter that the Competitive Telecommunications Association (“CompTel”) filed on May 10, 2002.¹

CompTel opposes Sprint’s recovering of its costs of call termination from the cost-causer, but the basis of CompTel’s opposition is unsupportable. According to CompTel, IXCs would be “harmed” if they began paying the costs they impose on Sprint and other CMRS carriers,² but Sprint would gain “no net revenue from these charges.”³ This is because, CompTel states, these access revenues “would be rapidly passed through to consumers through competitive pricing.”⁴ Thus, remarkably, CompTel opposes Sprint’s access charges *because consumers would benefit*.

CompTel’s letter highlights the fundamental inequity of the IXC position. Where IXCs fail to pay for access, wireless end users are required to subsidize the services provided to IXC customers, and indirectly, the customers of competitive and incumbent landline local exchange carriers. Neither CompTel nor any IXC has presented a justification for discriminating against an exchange carrier because of the technology used to terminate a call.

¹ See Letter from CompTel to Ms. Dorothy Attwood and Mr. Thomas Sugrue, WT Docket No. 01-316 (May 10, 2002)(“CompTel Letter”).

² The costs Sprint incurs in terminating an IXC call are not “artificial” as CompTel would have the Commission believe. *See id.* at 2.

³ *Id.* at 2. Although CompTel argues that Sprint could gain “no net revenue” from access charges, it nonetheless accuses Sprint of attempting to seek a “windfall.” *Id.*

⁴ *Id.*

CompTel's claim that it seeks to "encourage competition" by its position here cannot be squared with the facts. CMRS carriers cannot compete meaningfully with landline carriers if LECs receive access charges for call termination, while CMRS carriers receive nothing for performing the identical function.⁵ This discriminatory arrangement – IXCs unilaterally pay all providers of exchange access *except* CMRS providers – gives landline carriers an artificial cost advantage in the market.

CompTel never explains why it thinks its IXC members should be permitted to use Sprint's wireless network for free. Notably absent from CompTel's letter is any offer by its members to transport for free the long distance traffic generated by Sprint wireless customers. Nor does CompTel suggest that Sprint and other CMRS carriers are not providing a service in terminating IXC calls over their mobile networks. Thus, the "bill-and-keep" arrangement CompTel advocates is entirely one way – Sprint is supposed to terminate IXC traffic for free, but IXCs are unwilling to terminate Sprint's toll traffic for free.

CompTel cites the Commission's economists as believing that "bill-and-keep" is economically efficient. Sprint agrees that "bill-and-keep" is an appropriate *future* regime for the exchange of local traffic and might also be appropriate for IXC traffic, although it has noted that there are certain practical issues that need to be addressed.⁶ But "bill-and-keep" works only if it is applied *uniformly* – namely, no carrier providing local telecommunications imposes access charges so that IXC toll rates include nothing for access. It is the arrangement proposed by AT&T and CompTel – some local carriers (LECs) can recover their costs, while other local carriers (CMRS) do not recover their costs – that is discriminatory under the Communications Act and fundamentally distorts market forces. Moreover, the fact that the Commission *may* alter compensation arrangements in the future is not controlling of the proper outcome, legally, of the current dispute.

CompTel asks the Commission to declare that its "existing rules do not permit CMRS providers to impose access charges on IXCs."⁷ In fact, and in contrast to CompTel's claims, the only "existing rule" is that CMRS carriers provide exchange access services and that the rates for their services are not regulated. IXCs have no legal basis upon which to claim that an access provider cannot charge for the service it is providing. *See* 7 U.S.C. § 201. Indeed, the IXC's argument would appear to turn the Communications Act on its head by requiring that the FCC affirmatively approve in advance every charge imposed in the telecommunications industry, a virtual impossibility – and unprecedented.

⁵ CompTel's point that IXCs pay the ILEC in terminating CMRS traffic is misleading and underscores the discrimination inherent in the existing arrangement. ILECs perform a tandem function, and IXCs pay ILECs for performing this transit function. These IXC payments to ILECs do not, however, include the costs Sprint incurs when the IXC call is delivered to its network. The ILEC is merely recovering its costs of tandem switching. If the call had terminated to the ILEC's end office, it would have charged a higher rate to recover its end office switching costs. There is no justification for an arrangement whereby on a given land-to-mobile toll call, ILECs recover their costs from IXCs but CMRS providers receive nothing from IXCs.

⁶ *See* Sprint Comments, Docket No. 01-92, at 22-28 (Aug. 21, 2001); Sprint Reply Comments, Docket No. 01-92, at 10-13 (Nov. 5, 2001).

⁷ *Id.* at 2.

We currently operate in a CPNP environment whereby the carrier having the retail relationship with the calling party is responsible for paying the costs other carriers incur in completing the call. As noted above, the Commission is currently considering in another proceeding (Docket No. 01-92) whether to replace CPNP with bill-and-keep for intercarrier compensation. However, the outcome of that separate proceeding does *not* affect resolution of the narrow issue that the federal court has referred to the Commission – namely, whether during the period of the Sprint complaint and consistent with a CPNP regime, AT&T is obligated to compensate Sprint for the costs Sprint incurs in terminating AT&T's traffic.

Chairman Powell has stated that wireless offers the “best hope” for residential customers to enjoy the benefits of competition to incumbent LEC services.⁸ This hope cannot be turned into reality unless CMRS carriers recover their toll call termination costs in the same manner as incumbent LECs.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, one copy of this letter is being filed with the Secretary's office for filing in this docket.

Respectfully submitted,



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⁸ See FCC Chairman Michael K. Powell, FCC Press Conference, “Digital Broadband Migration” Part II (Oct. 23, 2001).