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September 5, 2003

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., TW-B204F  
Washington, DC 20554

Re: Implementation of Pay Telephone Reclassification and Compensation Provisions  
of the Telecommunications Act of 1996  
CC Docket No. 96-128, NSD FILE No. L-99-34

Dear Ms. Dortch:

As a follow-up to AT&T's August 6, 2003, *ex parte* presentation to the Wireline Competition Bureau staff, this letter further clarifies some of the issues raised during that meeting.

As virtually all of the comments filed by interexchange carriers ("IXCs) demonstrate: (1) it is impossible for IXCs to track calls after they have been delivered to a switched based reseller's ("SBR's") platform; (2) IXCs must rely on SBRs to obtain the data that IXCs are obligated to provide under the *Second Order on Reconsideration*,<sup>1</sup> and (3) IXCs generally have been unable to collect adequate call completion data from SBRs. Because AT&T has been unable to determine independently whether a call delivered to the SBRs' platform is "completed" to the called party, AT&T has been forced to overcompensate payphone service providers ("PSPs") by paying for *all* coinless payphone calls that it delivers to SBRs, regardless of whether the calls were completed.<sup>2</sup>

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<sup>1</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996; RBOC/GTE/SNET Payphone Coalition Petition for Clarification, *Second Order on Reconsideration*, 16 FCC Rcd. 8098 (2001) (*Second Order on Reconsideration*).

<sup>2</sup> Only recently, after over 1 ½ years of negotiations, has AT&T been able to finalize agreements with a small fraction of its SBR customers to determine the number of their non-completed calls. In those instances, AT&T provides to these SBRs the call detail records ("CDRs") for the payphone-originated toll-free calls delivered to a particular SBR. The SBR marks the CDRs for calls that were not completed and sends the marked CDRs back to AT&T. AT&T then removes the CDRs of the "not completed" calls from the data set used to compile the payphone compensation reports and processes PSP compensation. Even in these instances, however, there remain unresolved issues regarding the period before these arrangements were established. Moreover, the accuracy of the call-completion data is entirely dependent on the SBRs. *See* Diane Parisi Decl. filed June 23, 2003.

To resolve these issues, AT&T has proposed that the Commission implement a flexible solution that combines private agreements supplemented with mandatory regulations in instances where voluntary efforts fail. Specifically, the Commission should confirm the lawfulness of private agreements through which SBRs will agree to treat payphone calls delivered by IXCs to the SBRs' platforms as completed calls for which PSPs would be entitled to compensation. Such voluntary, private agreements would avoid administrative tracking costs – the costs associated with determining whether a coinless payphone call delivered by an IXC to an SBR's platform is completed.

Prior to the *Second Order on Reconsideration*, which requires that IXCs act as guarantors for SBRs, approximately 40% of AT&T's SBR customers opted to pay AT&T for all calls delivered to their platforms. AT&T compensated PSPs on behalf of these SBRs for each of the calls. AT&T cannot predict whether an SBR's particular internal business needs would warrant entering into voluntary agreements should the Commission confirm the lawfulness of such private contracts. AT&T believes, however, that if the Commission adopts AT&T's proposal, it is likely that SBRs with high call completion rates will opt into voluntary agreements, while SBRs that have low call completion rates (*e.g.* SBRs that provide pre-paid card service) will opt instead to pay PSPs directly. Based on these assumptions, and AT&T's current SBR customer base, it is not unlikely that more than 50% of AT&T's SBR customers may choose to enter into voluntary agreements with AT&T as described above.

For those SBRs that choose to pay PSPs directly, AT&T's proposes that IXCs be required to provide special informational reports to the PSPs (directly or through an industry clearinghouse). These reports would include (a) the number of calls delivered organized by toll-free number and payphone ANI, and (b) the name of the SBRs that do not wish to have IXCs submit compensation to PSPs on the SBRs' behalf. Under this arrangement, SBRs would be required to provide the necessary call tracking and call completion information to the PSPs. The proposal ensures that the PSPs have the names of the SBRs who are responsible for tracking, reporting, and paying compensation on the completed calls that were delivered by the IXCs, and the number of calls delivered to each of them from each payphone.<sup>3</sup>

AT&T estimates that it will need at least one full quarter beyond the effective date of the order to implement its proposal.

Sincerely,

Teresa Marrero

cc: Greg Cooke  
Darryl Cooper  
Henry Thaggert  
Jack Yachbe

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<sup>3</sup> AT&T would not oppose MCI's recommendation that an SBR's data be verified by an independent third party. Under no circumstances, however, should an IXC be *required* to pay on behalf of SBRs. *See* AT&T Comments at 17-19 describing why such a requirement is contrary to the 1996 Act.