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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE COMMUNICATION

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, DC 20554

Re: Supplemental Data Reporting Ex Parte, Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128

Dear Ms. Dortch:

On behalf of the American Public Communications Council ("APCC"), this letter responds to Sprint's ex parte submission regarding APCC's request for a ruling that carriers must include information on uncompleted calls and call duration in the call data accessible to payphone service providers ("PSPs") in connection with dial-around compensation payments. See Letter to Marlene H. Dortch, Secretary, FCC, from John E. Benedict, Senior Attorney, Sprint Corporation, filed June 15, 2004 ("Sprint Call Data Ex Parte"). See also APCC, Petition for Clarification or Partial Reconsideration, filed December 8, 2003, at 20-22 ("APCC Petition").

I. IXCs MUST MAINTAIN CALL DURATION DATA

APCC has already rebutted Sprint's argument that, merely because compensation is not based on call duration, information regarding call duration has no relevance to verifying compensation payments. See Reply of APCC to Comments on Its Petition for Clarification or Partial Reconsideration, filed February 20, 2004, at 15. Call duration data from Intermediate Carriers ("ICs"), for example, would be particularly useful in identifying flaws in switch-based resellers' tracking systems. See Data Reporting Issues, Letter to Marlene H. Dortch, Secretary, FCC, from Albert H. Kramer and Robert F. Aldrich, filed June 1, 2004, at 2 ("APCC Data Reporting Ex Parte").

As to the costs of maintaining call duration data, Sprint's letter is most notable for what it omits. Although Sprint makes a general claim that APCC's data requests collectively would impose "huge costs" on carriers, Sprint -- like AT&T and MCI (see APCC Data Reporting Ex Parte at 2) -- fails to identify any costs that interexchange carriers ("IXCs") would incur specifically to comply with a call duration data requirement. The only IXC costs that Sprint quantifies are attributed specifically to

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modifying IXC networks to track *uncompleted calls*.¹ Therefore, the Commission has no basis to deny APCC's request for a ruling that carriers must include call duration information in the verification data required to be maintained and available on request.

Sprint does state that local exchange carriers ("LECs") would be burdened by a requirement to maintain call duration data on completed calls, because not all LECs offer local measured service. LECs, however, handle a small fraction of dial-around calls.² The possibility that some LECs could justify a waiver of a call duration data requirement provides no basis for declining to apply the requirement to IXCs, who are responsible for the vast majority of dial-around calls and who *do* bill on a duration-sensitive basis.

II. IXCs MUST MAINTAIN UNCOMPLETED CALL DATA

In attempting to show that PSPs do not need data on uncompleted calls, Sprint repeats the fallacious arguments that (1) information on calls that carriers treat as uncompensable is irrelevant to payphone compensation issues and (2) audits alone are sufficient to confirm the reliability of carriers' compensation payments. Recent developments prove otherwise.

In April 2003, a PSP began comparing the dial-around payment data provided by IXCs with call data made available by the competitive LEC ("CLEC") serving the PSPs' payphones. The CLEC call records, which are available only from some LECs, included all calls delivered to IXCs' points of presence ("POPs"). The PSP found that many toll-free numbers that appeared in the CLEC's call data were never included in the dial-around compensation reports from IXCs. It ultimately developed that the toll-free numbers were used for international calling and had been omitted from the coverage of

¹ As noted above, data on the duration of calls delivered to SBRs by ICs would be particularly useful for purposes of verifying dial-around compensation payments. Data on the duration of calls completed by Completing Carriers would be useful as well. IXCs must maintain call duration information for billing purposes for both these types of calls – for example, for comparison with IC duration data as a check on SBR reporting of completed calls. Further, carriers are already required to report call volumes and maintain verification data for these types of calls. Therefore, even if the Commission finds it would be unduly burdensome to maintain data on *uncompleted calls*, the Commission should require carriers to maintain call duration data for the calls they deliver as ICs and for completed calls.

² In the *Fifth Reconsideration Order*, the FCC determined that incumbent LECs handle, on average, about 2.19 percent of dial-around calls. *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Fifth Order on Reconsideration and Order on Remand, 17 FCC Rcd 21274, Appx. C (2002) ("*Fifth Reconsideration Order*"). For non-Bell LECs, who are least likely to offer local measured service, the percentage is probably even lower. See Sprint Call Data Ex Parte at 2 ("[N]on-Bell LECs . . . handle few coinless payphone calls").

the IXCs' call tracking systems. For well over a year, no PSPs had been compensated for calls placed to these numbers.

This incident alone confirms that, contrary to the IXCs' argument, audits alone are insufficient to ensure the reliability of tracking systems. The IXCs' tracking errors were not discovered as the result of any audit; rather, it was a PSP that brought the omissions to the attention of each of the IXCs involved, including Sprint.

The incident also confirms that what PSPs need, in order to effectively verify the accuracy of carriers' compensation systems, is the ability to compare data on calls for which carriers pay compensation with data on calls that carriers treat as *uncompensable* – such as calls that are recorded as uncompleted. It should not be surprising that IXCs refuse to acknowledge the value of such data. When the Commission was considering adoption of the first-facilities-based-carrier-pays rule, IXCs argued that there was no need for PSPs to be given data even about the calls for which the IXCs were paying. Yet, the value of such data is proven by the incident described above. As the incident also shows, however, to fully verify the IXCs' data, PSPs need a basis for comparison. Where such data is not available from a LEC or an IC, comparison data can and should be provided from IXC records of uncompleted calls.

Sprint's persists in its erroneous arguments about what is relevant because it cannot let go of the dogma that its compensation system is infallible. Indeed, Sprint's arrogance in this regard is perhaps worse than any other major IXC. While some IXCs responded relatively promptly to the PSP's request for an inquiry in the case described above, it took Sprint a year to address the issue. During that year, Sprint repeatedly asserted that its tracking system was working, and challenged the PSP to prove otherwise. In April of this year, however, Sprint was finally forced to admit that its compensation system was simply failing to track a huge number of compensable calls.

In light of Sprint's protracted refusal to consider clear evidence of errors in its compensation system, it is particularly offensive for Sprint to accuse APCC of making "grossly unrealistic" demands and to urge the Commission to discount "any request that APCC puts forward in this docket." Sprint Data Reporting Ex Parte at 2. It is Sprint who misrepresents reality by insisting that audits are sufficient when Sprint itself, less than two months ago, was forced to acknowledge a major, longstanding flaw in its compensation system. Given Sprint's "grossly unrealistic" positions, the Commission cannot possibly accept at face value Sprint's unsworn statements regarding the cost of maintaining records on uncompleted payphone calls.

Sincerely,

 RF

Albert H. Kramer
Robert F. Aldrich

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cc: Jeffrey Carlisle
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