



John E. Benedict
Senior Attorney

Federal Regulatory Affairs
Voice 202 585 1910
401 9th Street, NW, Suite 400
Washington, DC 20004

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TWB-204
Washington, DC 20554

Re: Ex Parte Communication

Implementation of the Pay Telephone Reclassification and Compensation
Provisions of the Telecommunications Act of 1996
CC Docket No. 96-128

Dear Ms. Dortch:

Once again, Sprint Corporation ("Sprint") finds itself compelled to counter misstatements submitted in this docket by the American Public Communications Council ("APCC"). Sprint provides this letter in response to APCC's ex parte letter dated June 22, 2004.

First, APCC's letter misrepresents a June 15 letter that Sprint submitted at the request of Commission staff. Sprint's letter joined those of other carriers showing that APCC's demands for tracking and reporting of noncompleted call data and tracking and storing of call duration cannot be cost-justified. Sprint's letter explained that costs to modify its local exchange and interstate long distance networks to meet these demands could exceed \$9 million and \$1 million, respectively, and would impose operational costs of \$1 million or more per year – all at a time of sharply falling long distance revenues.

Faced with such unjustifiable costs, APCC tries to narrow the subject. It wrongly asserts that Sprint's cost estimate for its *LXC* operations includes only the cost of tracking noncompleted calls and not of call *duration*. APCC Letter at 1-2. In fact, Sprint's estimate included both costs. APCC misleads the Commission when it suggests that capturing and storing call duration can be cost-justified, even for those carriers that bill calls on a duration-sensitive basis. It ignores that these costs would be incurred by carrier after carrier nationwide – and all for the miniscule fraction of calls that are payphone-originated and coinless. It ignores the depth of comments in the record (including Sprint's) that show noncompleted calls and duration are irrelevant to compensability. And it ignores the fact that, beginning July 1, carriers' payphone compensation systems are *independently audited* – at considerable expense – confirming their reliability and making such additional reporting and costs clearly unwarranted.

APCC's casual suggestion (at 2) that LECs could seek a waiver of these requirements, because they handle only a small part of payphone calling, is hardly an invitation to proper rulemaking. The Commission cannot and should not impose regulations it knows are overbroad, only to assume that its overreach can be cured by letting members of one class of carrier request exemption from the rules. In the past, discrimination between carriers led the court of appeals to vacate payphone compensation rules altogether.

Second, APCC misrepresents an error in Sprint's payphone tracking systems, which Sprint corrected effective more than six months ago. Last year, a single PSP contacted Sprint with broad questions about compensation data. After Sprint arranged for its clearinghouse to process certain data at the PSP's request, the PSP identified some 8XX numbers for which it recorded calls made but for which Sprint had reported no calls. Ultimately, even though the number of calls was small and no other PSP had raised any similar concerns, Sprint investigated the matter thoroughly, preserved data tapes, and identified and corrected the error. Sprint then reprocessed an additional eight prior quarters of raw traffic data for its entire long distance network -- a costly exercise that involved reviewing some 12,000 data tapes and billions of call records and that took many weeks to complete. After call data processing was completed this spring, Sprint issued a supplemental payment, with interest, to affected PSPs. APCC claims (at 3) this error involved "a huge number of compensable calls," but actually it involved a discrete group of 8XX numbers -- less than 1/10th of 1% of Sprint's total -- and a very tiny fraction of Sprint's payphone originated calls.¹ Far from signaling IXC "arrogance," Sprint's handling of this tracking error was a testament to its integrity.

APCC claims (at 2, 3) that this incident "proves" that PSPs need data on noncompleted calls and that "audits alone are [in]sufficient." On contrary, it proves neither are necessary. The dispute was resolved under the interim rules, without any audit or additional reporting requirements. Data on noncompleted calls or call duration could have made no difference whatsoever, even if such capabilities had been in place. At the time, Sprint's payphone tracking system simply did not capture any calls to these particular foreign-carrier numbers, regardless of completion or duration. There would have been nothing to provide the "basis for comparison" that APCC claims (at 3) would allow PSPs "to fully verify the IXCs' data." Nor did an audit of Sprint's systems play any role. Sprint identified and corrected the error, and had begun reprocessing its switch data, well before it had retained an auditor for the new rules.

APCC raised its demands for noncompleted call and duration data only after new rules were released that abandoned the flawed and vacated "first-switch pays" rules. APCC seeks to impose so many costly burdens on carriers that only the largest, first-switch carriers could ever meet them. It just wants the Commission indirectly to re-imposes the old rules -- forcing first-switch carriers to pay for switch-based resellers -- while overcompensating PSPs at 100% of first-switch answer supervision. The Commission should reject its demands.

Sincerely,



John E. Benedict

cc: Jeffrey Carlisle
Denise Coca
Darryl Cooper
Tony Dale
William Dever

¹ The error involved a very small quantity of 8XX numbers that were coded differently in Sprint's billing system because they were provided to foreign carriers for their handling of foreign-billed calls.