Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20544

In the Matter of Wireline Competition Bureau Seeks Comment on Petition To Clarify Payphone Service Providers' Responsibilities With Respect to the Transmission of Payphone-Specific Coding Digits	WC Docket No. 11-141

REPLY COMMENTS OF AT&T INC.

AT&T Inc., ("AT&T"), on behalf of its subsidiaries, submits these reply comments in response to the Commission's Public Notice of August 31, 2011, seeking comment on a petition for declaratory ruling filed by GCB Communications, Inc. and Lake Country Communications, Inc.,[1] and in response to comments filed by APCC. AT&T makes three points. *First*, a PSP is responsible not only for maintaining its payphones on a Flex-ANI capable payphone line but also for avoiding any actions that may compromise the transmission of Flex ANI digits. *Second*, an IXC is entitled to rely on the proper transmission of Flex ANI digits to track and pay compensation; an IXC does not violate § 201(b) of the Act if it pays per-call compensation on all payphone-originated calls identified by proper Flex ANI digits. *Third*, as between IXCs and PSPs, PSPs bear responsibility for ensuring proper transmission of Flex ANI digits by their LECs, both because the PSP (not the IXC) knows whether Flex ANI digits should be transmitted

[1] *See* Public Notice, *Wireline Competition Bureau Seeks Comment on Petition To Clarify Payphone Service Providers' Responsibilities With Respect to the Transmission of Payphone-Specific Coding Digits*, DA 11-1450, WC Docket No. 11-141 (rel. Aug. 31, 2011).

from particular lines and in connection with particular calls and because the PSP has a remedy against the LEC if Flex ANI is not functioning properly by virtue of their customer relationship.

1. The Flex ANI requirement serves at least three related purposes. First, it is one mechanism that the Commission mandated to ensure that IXCs would have the technical ability to track payphone-originated calls.[2] IXCs are permitted to, and widely do, rely on Flex ANI to track compensable calls. Second, it permits an IXC to bill its customers accurately for the charges incurred on calls from payphones. Third, it permits an IXC to block calls from payphones when it does not wish to carry a call that will give rise to a per-call compensation obligation. That is important, because some customers may ask an IXC to block payphone originated calls rather than incur the per-call compensation obligation for such calls.[3]

2. As all parties acknowledge, to qualify for any "dial-around" compensation, a PSP must subscribe to a payphone line, which (with irrelevant exceptions) must be capable of transmitting Flex ANI digits. Based on AT&T's experience, it is possible that PSPs may establish service arrangements that prevent the transmission of Flex ANI digits on some or all of the calls transmitted from their payphones. IXCs have no visibility into PSPs' arrangements with their service providers, and no ability to monitor how a PSP is routing its calls to or over the PSTN. To the extent a PSP takes any steps that cause Flex ANI digits either not to be

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[2] *See* Report and Order, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 20541, 20591, ¶ 98 (1996) ("MCI and Sprint contend that each payphone should be required to generate 07 or 27 coding digits within the ANI for the carrier to track calls. We agree.") (footnote omitted).

[3] *See* Second Report and Order, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 13 FCC Rcd 1778, 1804, ¶ 57 (1997) ("The Commission's rules require that LECs provide certain automatic number identification information (ANI ii) to the IXC with each call. These digits provide IXCs with automated information that enables them to bill, block, and track calls.").

transmitted in the first instance or to be dropped somewhere in the call path, the PSP would lose any right to compensation for that call.

3. The Flex ANI requirement is intended to ensure that the obligation to pay per-call compensation does not create an unfair burden on IXCs. As noted above, it does this by ensuring that IXCs can accurately track and bill their customers for payphone-originated calls, and it ensures that IXCs can block payphone-originated calls for those customers who do not wish to incur the surcharges associated with such calls. If Flex ANI is not transmitted, then any IXC that relies on Flex ANI – as IXCs are unquestionably permitted to do – is unable to track and bill for payphone-originated calls and cannot block the calls – the very purposes for which Flex ANI was required. *See* n.2, *supra*. Accordingly, under the Commission's rules the IXC has no obligation to pay per-call compensation for such calls, and it does not act unjustly or unreasonably by declining to pay such compensation.[4]

That conclusion is strongly supported by the history of the Commission's decisions related to the waivers extending the time for initial implementation of Flex ANI. When it granted the waiver extending the time for Flex ANI implementation, the Commission made it clear that the waiver did not relieve IXCs of their obligation to pay compensation.[5] But it also made it clear that, when payphone-specific coding digits were not available, an IXC would be

[4] APCC argues that allowing Common Carriers to rely on Flex ANI would violate the statute, which requires compensation for every payphone call. That is incorrect: as U.S. South has pointed out, § 276(b)(1)(A) imposes no obligation on carriers – it directs the Commission to adopt regulations – and if APCC objects to the Commission's Flex ANI rules, it should have raised the issue years ago.

[5] *See* Memorandum Opinion and Order, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 13 FCC Rcd 4998, ¶ 86 (C.C.B. 1998).

permitted to compensate a payphone on a per-phone basis.[6] In other words, the Commission recognized that an IXC could not be required to pay per-call compensation when the very mechanism that the Commission had mandated for tracking, billing, and blocking payphone-originated calls was not available.

In the current environment, IXCs are permitted to and do rely on Flex ANI to track and pay compensation; if, through no fault of the Completing Carrier, Flex ANI digits are dropped in the call path before a call is delivered to the Completing Carrier, the Completing Carrier does not act unreasonably if it does not pay compensation for such a call. From the perspective of the Completing Carrier receiving the call, it lacks precisely that which is required to identify the call as payphone-originated. The Completing Carrier bears no responsibility to pay compensation on a call that is not identified as a payphone-originated call in the manner required under the Commission's rules.

4. It bears emphasizing that, as between the PSP and the Completing Carrier, it is plainly the PSP's obligation to ensure that Flex ANI is operating properly. This is true for at least two sets of reasons. First, the IXC has no way to distinguish between a Flex ANI failure and any number of other reasons that payphone-specific coding digits are not transmitted with a particular call. Accordingly, there would be nothing to alert a Completing Carrier to any problem with Flex ANI. By contrast, PSPs have ample means to test Flex ANI and can do so on a routine basis. And a PSP (unlike a Completing Carrier) knows whether a particular payphone is connected to a payphone line, whether it is in service, and whether it is being used for dial-around calls and how many such calls are attempted. It can therefore detect (albeit after some

[6] *See* Memorandum Opinion and Order, *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, 13 FCC Rcd 10893, 10893-94, ¶ 1 (C.C.B. 1998).

weeks delay) whether its compensation payments are out of whack. If the Completing Carrier were under an obligation to pay per-call compensation notwithstanding the absence of Flex ANI, the PSP would lack the appropriate incentive to monitor and address any Flex ANI issues.

Second, and just as important, the PSP has a direct relationship with the LEC – which may be a CLEC affiliated with the PSP – responsible for the transmission of Flex ANI digits. If the LEC has an obligation to the PSP to transmit payphone-specific digits and fails to do so, the PSP may have a direct remedy against the LEC. And the PSP (unlike the Completing Carrier) has a customer-service provider relationship with the LEC that gives the PSP leverage to ensure that the service is provided as promised and that, otherwise, the PSP receives appropriate recompense.

CONCLUSION

The Commission should clarify that Completing Carriers may rely on Flex ANI digits in tracking and paying per-call compensation, and that Completing Carriers that do rely on Flex ANI digits for tracking and paying compensation do not act unjustly or unreasonably if they do not pay compensation on calls that, through no fault of the Completing Carrier, lack the appropriate digits.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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