



# **PRESERVING THE LIFELINE IN THE BROADBAND AGE**

## **PAYPHONES –THE COMMUNICATIONS INFRASTRUCTURE OF LAST RESORT**

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## **BEFORE SECTION 276: AN EMERGING, BUT COMPETITIVELY UNEQUAL INDUSTRY USED BY ALL CONSUMERS**

- The payphone market conditions that were found to require § 276
  - LECs own majority of payphones – at least 75%
  - LEC payphones cross subsidized from access charges and local exchange revenues
    - Interstate access
    - Intrastate access
    - Intrastate services, including local exchange
  - LEC Payphone operations also subsidized as integrated part of local exchange operations
    - Operating level cross subsidies
    - “Accounting” cross subsidies
  - MFJ long distance restrictions apply to BOCs
    - BOCs not permitted to choose interLATA carrier/operator services provider
  - Independent PSPs receive per phone dial around compensation
    - \$6 per month per phone, irrespective of volume of calling
  - LECs anticompetitively set rates to their competitors the independent PSPs artificially high by, including “contribution”, using “fully distributed costs”, etc.



## **BEFORE SECTION 276: AN EMERGING, BUT COMPETITIVELY UNEQUAL INDUSTRY USED BY ALL CONSUMERS (cont'd)**

- Who used payphones
  - Everyone on the go, or in transit, or away from their “regular” phone, including commuters, travelers, etc.
  - People who had no “regular” phone and could not afford one: low income people
- Growing pains

## THE STATUTORY MANDATE: LEVELING THE PLAYING FIELD AND PROMOTING DEPLOYMENT

- Section 276(b)(1)

“In order to promote competition among payphone service providers and promote the widespread deployment of payphones to the benefit of the general public, . . . the Commission shall prescribe regulations that---

(A) establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed interstate and . . . intrastate call using their payphone . . .;”

- Eliminate all interstate and intrastate access charge payphone elements and all local exchange subsidies to LEC payphones in favor of the compensation plan.
- Prescribe nonstructural safeguards.;
- Allow BOC payphone divisions to compete with independent payphone providers in controlling the choice of interLATA carriers from locations.
- Allow BOC payphone divisions to compete with independent payphone providers in controlling the choice of intraLATA carriers from locations.



## **THE STATUTORY MANDATE: LEVELING THE PLAYING FIELD AND PROMOTING DEPLOYMENT (cont'd)**

- Section 276(c)

“To the extent . . . State requirements are inconsistent . . . the Commission’s regulations shall preempt such State requirements.”



## THE NEXT FEW YEARS: FULFILLING THE PROMISE

- The Commission adopts regulations for the then existing industry structure
  - A compensation plan where DAC payers have no incentive to comply but LECs, as the dominant providers of payphone services, have an interest in the integrity of the system and ensuring compliance with and enforcement of the regulations
  - Competitive safeguards for an industry that is LEC dominated –nonstructural separations
  - Cost based rates –New Services Test
- Competition flourishes.
  - Independent PSPs gain market share
- Plenty of litigation, mostly around methodology for determining and actual level of DAC, the DAC rules, and collecting DAC
- Payphone deployment continues to rise, from about 1.8m to about 2.2m from 1996 to 1998
- Technological innovation in the form of enhanced smart phones deployed by all payphone providers – both LEC and independent



## THE NEXT FEW YEARS: FULFILLING THE PROMISE (cont'd)

- In 1999, the Commission found 2.12m payphones to be an appropriate level of payphone deployment, setting compensation in a way that “will not negatively affect the current deployment of payphones . . . to satisfy Congress’ goal of widespread deployment of payphones.” *Second Report and Order*, 14 FCC Rcd 2545, 2552, ¶15 (1999).
- Mobile services begin to emerge as a market force



## **THIS CENTURY: AN INDUSTRY IN DECLINE BUT STILL PERFORMING VALUABLE SERVICES**

- Over the next few years, payphone deployment drops as wireless penetration grows
  - 2.06m in 2000 to 701,000 in March, 2008
  - Following the FCC's decision in 2008 to provide Lifeline support for non-facilities based wireless resellers, decline in deployed payphones accelerates; now something less than 400,000 payphones remain. The result is no service or a decline in service to many low income consumers
- LECs have long since left the business
- Left with a compensation plan where carriers' lack of incentive to comply in the first instance is compounded by the absence of the disciplining interest of LECs in compliance and enforcement
- The compensation plan as inhibitor of technological advancement and broadband deployment
  - Getting ANI digits into the TDM call stream from a broadband origination
- The users of payphones have changed
  - More and more people on the go use mobile: travelers, commuters, business people, etc.



## **THIS CENTURY: AN INDUSTRY IN DECLINE BUT STILL PERFORMING VALUABLE SERVICES (cont'd)**

- Payphones increasingly become a communications device of last resort
  - In emergencies, disasters, power outages etc. when mobile services are lost or when they are unavailable, as in rural or dead zones
  - For the increasingly declining portion of the population who cannot afford mobile, i.e., low income consumers, a lifeline.



## WHAT NOW? A NEW ROLE and MODEL FOR PAYPHONES

- While the statutory mandate for widespread deployment may not today require 2M payphones, payphones remain an important, valuable component of the nation's communications infrastructure
  - Particularly important as a lifeline for the poorest in society. The FCC's own findings are that almost half the Lifeline eligible population will receive no benefit from the Lifeline program, and payphones will remain as the only "lifeline" for many
- Assessing the need for a new "compensation plan" to meet the statutory mandate "to ensure that payphone service providers are fairly compensated for each and every . . . call."
  - APCC plan presented at DAC 2010 forum: total resistance and/or lack of interest by carriers
  - No LEC interest in system: no longer in their business interests to address PSP issues or to worry about carrier compliance and /or enforcement
  - An IP network



## **WHAT NOW? A NEW ROLE and MODEL FOR PAYPHONES (cont'd)**

- A fresh look needs to start now; the best vehicle is the pending petition on reconsideration of the refusal to even initiate a proceeding to assess whether payphones should have Lifeline support
  - That proceeding could be broadened to include all the issues, including contribution by PSPs. But Lifeline support must be a part of it.
  - What will NST based rates mean in an IP world?
  - How will calls be counted for compensation? Should there be a call count in the same sense as in the TDM world.?