

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Implementation of the Pay Telephone
Reclassification and Compensation Provisions
of the Telecommunications Act of 1996
CC Docket No. 96-128
File No. NSD-L-99-34

ORDER

Adopted: July 25, 2001

Released: July 26, 2001

By the Senior Deputy Chief, Common Carrier Bureau:

1. On May 25, 2001, Sprint Corporation filed a request for an administrative stay pending judicial review of the Commission's Second Order on Reconsideration in the above-captioned docket. In the Second Order on Reconsideration, the Commission addressed the question of which long distance carrier is responsible for payment of compensation to a payphone service provider ("PSP") for coinless payphone calls that are routed to the network of a facilities-based interexchange carrier ("IXC"), and then to one or more long distance resellers, before being transferred to a local exchange carrier ("LEC") for completion. Because Sprint has failed to demonstrate that it will suffer irreparable harm if denied a stay and because it is our judgment that granting a stay would jeopardize the public interest, we deny Sprint's request for an administrative stay.

2. In section 276 of the Communications Act of 1934, as amended, Congress directed the Commission "to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone." Congress adopted this provision in large measure to "promote the widespread deployment of payphone services to the benefit of the general public." In the Second Order on Reconsideration, the Commission determined that, because a PSP has no independent means of identifying a reseller to which a coinless call is routed by a facilities-based IXC or of tracking calls received by a reseller, the PSP is placed at a significant disadvantage if forced to collect per-call compensation directly from resellers. The Commission further determined, on the basis of the record before it, that an underlying facilities-based carrier that has a customer relationship with a long distance reseller is in the best position to track, and pay compensation to PSPs for, coinless calls made from payphones. Accordingly, in an effort to ensure that PSPs receive the compensation to which

1 Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, NSD File No. 99-34, Second Order on Reconsideration, 2001 WL 327634 (rel. April 5, 2001) ("Second Order on Reconsideration").

2 47 U.S.C. § 276(b)(1)(A) (emphasis added).

3 47 U.S.C. § 276(b)(1).

4 Second Order on Reconsideration, ¶ 15.

5 Id., ¶ 16.

they are entitled by explicit statutory command, the Commission determined that the first facilities-based IXC to which a LEC delivers a coinless payphone call must compensate the PSP when the underlying carrier routes the call to a switch-based reseller.⁶ The Commission permitted facilities-based carriers to obtain reimbursement from their reseller customers, both for payments made to PSPs for coinless calls routed to their reseller customers, and for costs associated with tracking those calls.⁷

3. Given that Sprint is free to recover from its switch-based reseller customers all costs associated with the performance of any additional functions that may be required under the *Second Order on Reconsideration*, we conclude that Sprint has failed to demonstrate that, absent a stay, it will be irreparably harmed. Moreover, to the extent that a stay would maintain an ineffective system of per-call compensation that deprives PSPs of the compensation that they are lawfully due, a stay would jeopardize, rather than promote, the widespread deployment of payphone services and, thus, undermine the public interest identified by Congress. Accordingly, IT IS ORDERED that Sprint's request for administrative stay pending judicial review is denied.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey Carlisle
Senior Deputy Chief,
Common Carrier Bureau

⁶ *Id.*, ¶ 15.

⁷ *Id.*, ¶ 20.