

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

In the Matter of

Implementation of the
Call Home Act of 2006

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WC Docket No. 07-2

ORDER

Adopted: January 8, 2007**Released: January 18, 2007**

By the Commission: Chairman Martin, Commissioners Copps, Adelstein, Tate, and McDowell issuing a joint statement.

1. In this Order, we forbear from applying certain Universal Service and Telecommunications Relay Service contribution requirements adopted in accordance with the Communications Act of 1934, as amended (Communications Act), to calls placed by Armed Forces personnel stationed or deployed outside the United States to their families or friends at home. We expect that these measures, by reducing service providers' costs, will reduce the prices that these military personnel pay to call family and friends in the United States. We adopt this Order as an initial but immediate response to the recent enactment of the Call Home Act of 2006, which directs the Commission to "take such action as may be necessary to reduce the cost of calling home for Armed Forces personnel."¹ Specifically, we forbear from sections 254(d) and 225(d)(3)(B) of the Communications Act, and their implementing rules, so as to exempt from Universal Service Fund (USF) and Telecommunications Relay Services (TRS) fund contribution requirements revenue from calls covered by section 2(a) of the Call Home Act, including, but not limited to, calls made using prepaid calling cards and post-paid calling cards, and collect calls made by Armed Forces personnel.²

2. In addition, we intend to issue shortly a Notice of Proposed Rulemaking to propose and seek comment on additional steps the Commission might take to further implement the Call Home Act and thus further reduce the cost to military personnel of calling home. In the interim, we invite military personnel and their families, as well as other parties who have experience calling to or from American military bases abroad, to provide us with first-hand information concerning the various means Armed Forces personnel currently use to communicate with friends and family in the United States, and to comment on the benefits and limitations of the various services and the associated costs and fees.

¹ See Call Home Act of 2006, Pub. L. No. 109-459, § 2(a), 120 Stat. 3399 (2006) (Call Home Act). The complete text of the Call Home Act is attached as an Appendix to this Order.

² See 47 U.S.C. §§ 254(d), 225(d)(3)(B); 47 C.F.R. §§ 54.706, 54.711, 54.713, 64.604(c)(5)(iii)(A) and (B); see also Call Home Act, §§ 2(a), (c).

I. BACKGROUND

3. After the Persian Gulf War, in 1992, Congress passed legislation directing the Commission to take such actions as may be necessary to reduce the cost of calling home for Armed Forces personnel in specific countries.³ The Call Home Act updates this legislation and expands its scope so as to benefit all military personnel, wherever they may be deployed overseas.⁴ Specifically, section 2(a) of the Call Home Act directs the Commission to “take such action as may be necessary to reduce the cost of calling home for Armed Forces personnel” who are stationed or deployed anywhere outside the United States.⁵ Section 2(b) of the Act directs the Commission, in coordination with the Department of Defense and the Department of State, to: (1) “evaluate and analyze the costs to Armed Forces Personnel of such telephone calls to and from American military bases abroad”; (2) “evaluate methods of reducing the rates imposed on such calls” (including the deployment of new technology); (3) “encourage telecommunications carriers . . . to adopt flexible billing procedures and policies for Armed Forces personnel and their dependents”; and (4) “seek agreements with foreign governments to reduce international surcharges” on such calls.⁶ The Commission is prohibited, however, from regulating rates in implementing the Call Home Act.⁷

II. DISCUSSION

4. *Forbearance from Federal Contributions.* In this Order, we take an immediate and interim step to implement section 2(a) of the Call Home Act by forbearing from applying the contribution obligations imposed by sections 254(d) and 225(d)(3)(B) of the Communications Act, and their implementing rules, to revenues from calls covered by section 2(a) of the Call Home Act, including, but

³ Telecommunications Authorization Act of 1992, § 213, Pub. L. No. 102-538, 106 Stat. 3545 (codified at 47 U.S.C. § 201 note).

⁴ The Call Home Act repeals section 213 of the Telecommunications Authorization Act of 1992. *See* Call Home Act, § 3. That section differed from the current legislation, among other things, insofar as it was limited to addressing the cost to Armed Forces personnel of telephone calls from certain specified countries. *See* 47 U.S.C. § 201 note (section 213(a) of the Telecommunications Authorization Act of 1992 (directing the Commission to “make efforts to reduce telephone rates for Armed Forces personnel in the following countries: Germany, Japan, Korea, Saudi Arabia, Great Britain, Italy, Philippines, Panama, Spain, Turkey, Iceland, the Netherlands, Greece, Cuba, Belgium, Portugal, Bermuda, Diego Garcia, Egypt, and Honduras”)). The current legislation addresses “the cost of calling home for Armed Forces personnel who are stationed outside the United States,” and includes the costs “of such telephone calls to and from American military bases abroad.” *See* Call Home Act, §§ 2(a), (b)(1); *see also* *Congress Passes Call Home Act of 2006*, U.S. Senate Committee on Commerce, Science, and Transportation, Press Release (Dec. 9, 2006) (located at http://commerce.senate.gov/public/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=248701&Month=12&Year=2006).

⁵ Section 2(a) of the Call Home Act provides:

The Federal Communications Commission shall take such action as may be necessary to reduce the cost of calling home for Armed Forces personnel who are stationed outside the United States under official military orders or deployed outside the United States in support of military operations, training exercises, or other purposes as approved by the Secretary of Defense, including the reduction of such costs through the waiver of government fees, assessments, or other charges for such calls. The Commission may not regulate rates in order to carry out this section.

Pub. L. No. 109-459, § 2(a), 120 Stat. at 3399; *see also id.* § (2)(c)(1) (defining “Armed Forces” in accordance with 5 U.S.C. § 2101(2)).

⁶ *Id.* § 2(b).

⁷ *Id.* § 2(a).

not limited to, calls made using prepaid calling cards and post-paid calling cards, and collect calls.⁸

5. Currently, providers of interstate telecommunications services and certain other providers of telecommunications are generally required to contribute to the USF based on their end-user interstate and international revenues.⁹ Similarly, carriers providing interstate telecommunications services are currently required to contribute to the TRS fund on the basis of interstate and international end-user telecommunications revenues.¹⁰ These contributions by providers are normally passed through to consumers, which raises the effective cost of calls.

6. The action we take here today expands the forbearance relief that the Commission granted last year in the *Prepaid Calling Card Order* by applying similar relief to additional calling options and by also exempting such calls from TRS contribution obligations.¹¹ In the *Prepaid Calling Card Order*, the Commission found that military personnel rely heavily on prepaid calling cards, and accordingly it forbore “from applying section 254(d) to the extent necessary to implement the exemption from USF contribution obligations for prepaid calling cards sold by, to, or pursuant to contract with DoD or a DoD entity, on an interim basis while the Commission decides other USF contribution issues in its *Contribution Methodology Proceeding*.”¹²

7. Under Section 10(a) of the Communications Act, the Commission must “forbear from applying any regulation or any provision of this Act to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services” if the Commission determines that: (1) enforcement of the regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications service are just and reasonable and not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying the regulation or provision is consistent with the public interest.¹³ We find, as we did in the *Prepaid Calling Card Order*, that the exemptions specified above meet the forbearance standard.

8. First, contributions to the Universal Service and TRS funds, with respect to the services described above, are not necessary to ensure that rates for any service are just and reasonable and not unreasonably discriminatory.¹⁴ Consistent with our analysis in the *Prepaid Calling Card Order*, although the benefit of these narrow exemptions may be significant for Armed Forces personnel and their families, the financial impact on other consumers should be minimal and limited to negligible increases in the USF

⁸ See 47 U.S.C. §§ 160(a), 254(d), 225(d)(3)(B); see also Call Home Act, § 2(a).

⁹ 47 U.S.C. § 254(d); 47 C.F.R. §§ 54.706, 54.711, 54.713.

¹⁰ 47 U.S.C. § 225(d)(3)(B). This statutory obligation is reflected in sections 64.604(c)(5)(iii)(A) and (B) of the Commission’s rules. 47 C.F.R. §§ 64.604(c)(5)(iii)(A), (B).

¹¹ See *Regulation of Prepaid Calling Card Services*, WC Docket No. 05-68, Declaratory Ruling and Report and Order, 21 FCC Rcd 7290 (2006) (*Prepaid Calling Card Order*).

¹² *Prepaid Calling Card Order*, 21 FCC Rcd at 7299, para. 24 (citing 47 U.S.C. §§ 160(a), 254(d); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752 (2002) (*Contribution Methodology Proceeding*)); see *id.* at 7298-99, para. 23; see also *Universal Service Contribution Methodology*, WC Docket Nos. 06-122, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006).

¹³ 47 U.S.C. § 160(a).

¹⁴ See 47 U.S.C. § 160(a)(1).

or TRS contributions associated with other services.¹⁵ Further, enforcement of the existing contribution requirements is not necessary for the protection of consumers generally because the exemptions are available only to providers of the narrow class of services at issue and the only effect on consumers generally might be negligibly higher rates due to possible increases in USF or TRS contributions.¹⁶ Third, forbearance clearly serves the public interest.¹⁷ Servicemen and women stationed abroad depend on affordable and timely means to contact their families and loved ones, and many cannot afford the expense associated with overseas calls needed to address personal and family issues.¹⁸ Exempting calls made by Armed Forces personnel stationed and deployed abroad from current USF and TRS contribution obligations will provide clear benefits to our dedicated Armed Forces personnel, which far outweigh any potential costs. And to ensure that Armed Forces personnel benefit from our actions, we emphasize that providers of such calls should flow through any cost savings in the form of lower prices. Finally, because these exemptions will be available to any provider of telecommunications that offers the services at issue, they will promote competitive market conditions pursuant to section 10(b) of the Communications Act.¹⁹ Accordingly, we find that these exemptions satisfy section 10(a) and that forbearance is appropriate.²⁰

9. To implement the forbearance granted in this Order, carriers and other providers of telecommunications will need to alter how they report revenue on the FCC Forms 499-A and 499-Q. On the FCC Form 499-Q, filers should modify their projections to account for the exclusion of revenue associated with calls covered by section 2(a) of the Call Home Act (Call Home Act Revenues) from their contribution bases. Contributors shall continue to project their gross-billed interstate and international end-user revenues on Line 119, which would include Call Home Act Revenues, but shall exclude calls

¹⁵ See 47 C.F.R. §§ 54.709; 64.604(c)(5)(iii)(B); see also *Prepaid Calling Card Order*, 21 FCC Rcd at 7299, para. 25. The USF assessment is determined quarterly as a percentage of projected end-user interstate and international revenues. *Proposed First Quarter 2007 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 06-2506 (rel. Dec. 13, 2006) (announcing a USF Contribution Factor of 9.7% for the first quarter of 2007). The TRS assessment is determined annually based on end-user interstate and international revenues. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, DA 06-1345 (rel. June 29, 2006) (announcing a TRS Contribution Factor of 0.00535).

¹⁶ By lowering telecommunications providers' costs, these exemptions should help ensure that our soldiers are able to obtain telecommunications services at reduced prices consistent with the clear intent of the Call Home Act. We continue to encourage voluntary efforts by carriers to minimize the costs of calls placed by or to United States Armed Forces personnel. See, e.g., Verizon Business to Help Provide Videoconference Linking Marines in Iraq With Loved Ones at Camp Pendleton, Verizon Press Release (rel. Dec. 8, 2006) (located at <http://newscenter.verizon.com/press-releases/verizon/2006/verizon-business-to-help.html>); AT&T and the USO Help Connect Military Families for the Holidays, Supports Military Families with Free Phone Calls, Donates Thousands More Prepaid Phone Cards to U.S. Military, AT&T Press Release (rel. Nov. 20, 2006) (located at <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=23166>); Letter from Judy Sello, Senior Attorney, AT&T, to Marlene H. Dortch, Secretary, FCC, at 4 n.3 (filed Nov. 8, 2004 in WC Docket No. 03-133). The action we take here, consistent with the directives of the Call Home Act, should allow telecommunications providers to expand these efforts.

¹⁷ See 47 U.S.C. § 160(a)(3).

¹⁸ See, e.g., Statements on Introduced Bills and Joint Resolutions, 152 Cong. Rec. S3591-01 (daily ed. April 26, 2006).

¹⁹ See 47 U.S.C. § 160(b).

²⁰ Should any telecommunications provider need to make a filing with the Commission to implement the requirements of this Order, for example to introduce a new service or facility or to reduce the rate for services offered to Armed Forces personnel, that would result in the imposition of a regulatory fee, see, e.g., 47 C.F.R. § 1.1103, we encourage the filing of a request for waiver of any such fees.

covered by section 2(a) of the Call Home Act on Line 120, which is for projected collected interstate and international end-user revenues.

10. For purposes of the FCC Form 499-A, contributors claiming an exemption for Call Home Act Revenues should continue to report billed revenues in the appropriate lines of Block 4 of the FCC Form 499-A. Line 603 of Form 499-A allows a reporting entity to certify that it is exempt from one or more contribution requirements and provides space to explain the basis for the certification. In this order, we exempt telecommunications providers from contributing to USF and TRS with respect to Call Home Act Revenues. Accordingly, entities claiming this exemption may use line 603 to certify that “[enter dollar amount] of my gross billed end-user telecommunications revenues were the result of providing telecommunications to Armed Forces personnel stationed abroad for calls placed from foreign points to the United States, and are covered by the Call Home Act of 2006, which Congress passed to reduce the costs of calling home for Armed Forces personnel who are stationed abroad.” Carriers and other providers of telecommunications claiming an exemption for Call Home Act Revenues are also reminded that they remain subject to the Commission’s audit authority, and we emphasize that we retain the discretion to evaluate contributions and determine on a case-by-case basis whether waste, fraud, or abuse has occurred and whether corrective action is necessary. We hereby instruct the Universal Service Administrative Company (USAC) to exclude such revenues when calculating the contributor’s USF obligation.²¹ We also hereby instruct the TRS administrator (currently the National Exchange Carrier Association (NECA)) to exclude such revenues when calculating the contributor’s TRS obligation.

11. This forbearance action is intended to allow telecommunications providers to offer immediate relief to our Armed Forces personnel stationed and deployed abroad. However, the actions we take here are intended to be interim in nature, and we recognize that the most effective and appropriate relief may change, depending both on the Commission’s resolution of other USF contribution issues in its *Contribution Methodology Proceeding* and on the record that is generated in response to the Notice of Proposed Rulemaking, that we intend to release shortly.²²

12. *Further Action.* Section 2(b) of the Call Home Act provides that, in taking action necessary to reduce the cost to military personnel of calling home –

the Commission, in coordination with the Department of Defense and the Department of State, shall –

- (1) evaluate and analyze the costs to Armed Forces personnel of such telephone calls to and from American military bases abroad;
- (2) evaluate methods of reducing the rates imposed on such calls, including deployment of new technology such as voice over internet protocol or other Internet protocol technology;
- (3) encourage telecommunications carriers (as defined in section 3(44) of the

²¹ Where revenue is excluded as Call Home Act Revenue, such revenue is also excluded from consideration in evaluating qualification for both the *de minimis* exemption and the limited international revenue exception (LIRE). 47 C.F.R. §§ 54.706(c), 54.708.

²² We have ample authority to change our decision to forbear as necessary to reflect changed circumstances or a decision on the proposals in the forthcoming Notice of Proposed Rulemaking. See, e.g., *Petition for Forbearance of the Verizon Telephone Companies Pursuant to 47 U.S.C. § 160(c)*, WC Docket No. 01-338, Memorandum Opinion and Order, 19 FCC Rcd 21496, 21509 n.85 (2004) (noting the Commission’s authority to reconsider forbearance decisions), *aff’d sub nom. Earthlink v. FCC*, 462 F.3d 1, 12 (D.C. Cir. 2006).

Communications Act of 1934 (47 U.S.C. 153(44))) to adopt flexible billing procedures and policies for Armed Forces personnel and their dependents for telephone calls to and from such Armed Forces personnel; and

- (4) seek agreements with foreign governments to reduce international surcharges on such telephone calls.²³

13. We intend to release shortly a Notice of Proposed Rulemaking in this docket to address the additional steps we might take to implement the Call Home Act. For example, we will seek comment on whether there are additional regulatory fees or assessments associated with calls placed by or to Armed Forces personnel that may be waived or modified. Alternatively, we will ask about consumer disclosure of additional fees for calling cards that may be used in countries such as Iraq or Afghanistan. And, as the Call Home Act suggests, we will also seek comment on whether and how new technologies can be used to reduce the costs of such calls. The Notice of Proposed Rulemaking will also seek comment on whether there are charges imposed by foreign governments that may be waived or modified to further reduce the costs of such calls.

14. In the interim, we establish below an email address for interested parties to provide us with information to help us craft a useful and more complete Notice of Proposed Rulemaking. Specifically, we invite military personnel and their families, as well as other interested parties with experience calling to or from American military bases abroad, to provide us with first-hand information concerning the telecommunications services that Armed Forces personnel currently use to communicate with friends and family in the United States, and to comment on the benefits and limitations of the various services and the associated costs and fees. This information will better enable us to “evaluate and analyze the costs to Armed Forces personnel of such telephone calls to and from American military bases abroad,” the first of the four factors we are directed to consider under section 2(b).²⁴ It will also provide a useful framework for consideration of the remaining three factors.

15. Members of the public may submit written comments by email to CallHomeAct@fcc.gov or by U.S. Postal Mail to FCC, Pricing Policy Division, Room 5A232, 445 12th Street, SW, Washington, DC 20554. Although no specific date has been established for adoption or release of the forthcoming Notice of Proposed Rulemaking, comments received will be included in the record and will be carefully considered as the Commission addresses additional steps that may be taken.

III. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED, pursuant to the Call Home Act of 2006, Pub. L. No. 109-459, 120 Stat. 3399, and section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, that the Commission SHALL FORBEAR from applying section 254(d) of the Communications Act, 47 U.S.C. § 254(d), and sections 54.706, 54.711 and 54.713 of the Commission’s rules, 47 C.F.R. §§ 54.706, 54.711, 54.713, to revenues from certain services provided to United States military personnel, as set forth herein.

17. IT IS FURTHER ORDERED, pursuant to the Call Home Act of 2006, Pub. L. No. 109-459, 120 Stat. 3399, and section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, that the Commission SHALL FORBEAR from applying section 225(d)(3)(B) of the Communications

²³ Call Home Act, § 2(b). The Commission already has begun coordinating with both the Department of Defense and Department of State and will continue that coordination throughout this proceeding.

²⁴ Call Home Act, § 2(b)(1).

Act, 47 U.S.C. § 225(d)(3)(B), and sections 64.604(c)(5)(iii)(A) and (B) of the Commission's rules, 47 C.F.R. §§ 64.604(c)(5)(iii)(A) and (B), to revenues from certain services provided to United States military personnel, as set forth herein.

18. IT IS FURTHER ORDERED, pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, and section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that the Commission's forbearance decision SHALL BE EFFECTIVE on January 18, 2007. Pursuant to sections 1.4 and 1.13 of the Commission's rules, 47 C.F.R. §§ 1.4 and 1.13, the time for appeal SHALL RUN from the release date of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX**Call Home Act of 2006**

PL 109-459 (S 2653)

One Hundred Ninth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the third day of January, two thousand and six

An Act

To direct the Federal Communications Commission to make efforts to reduce telephone rates for Armed Forces personnel deployed overseas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Call Home Act of 2006”.

SEC. 2. TELEPHONE RATES FOR MEMBERS OF ARMED FORCES DEPLOYED ABROAD.

(a) **IN GENERAL.**—The Federal Communications Commission shall take such action as may be necessary to reduce the cost of calling home for Armed Forces personnel who are stationed outside the United States under official military orders or deployed outside the United States in support of military operations, training exercises, or other purposes as approved by the Secretary of Defense, including the reduction of such costs through the waiver of government fees, assessments, or other charges for such calls. The Commission may not regulate rates in order to carry out this section.

(b) **FACTORS TO CONSIDER.**—In taking the action described in subsection (a), the Commission, in coordination with the Department of Defense and the Department of State, shall—

(1) evaluate and analyze the costs to Armed Forces personnel of such telephone calls to and from American military bases abroad;

(2) evaluate methods of reducing the rates imposed on such calls, including deployment of new technology such as voice over Internet protocol or other Internet protocol technology;

(3) encourage telecommunications carriers (as defined in section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44))) to adopt flexible billing procedures and policies for Armed Forces personnel and their dependents for telephone calls to and from such Armed Forces personnel; and

(4) seek agreements with foreign governments to reduce international surcharges on such telephone calls.

(c) **DEFINITIONS.**—In this section:

(1) ARMED FORCES.—The term “Armed Forces” has the meaning given that term by section 2101(2) of title 5, United States Code.

(2) MILITARY BASE.—The term “military base” includes official duty stations to include vessels, whether such vessels are in port or underway outside of the United States.

SEC. 3. REPEAL OF EXISTING AUTHORIZATION.

Section 213 of the Telecommunications Authorization Act of 1992 (47 U.S.C. 201 note) is repealed.

SEC. 4. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANTS.

Pursuant to section 3006 of Public Law 109–171 (47 U.S.C. 309 note), the Assistant Secretary for Communications and Information of the Department of Commerce, in consultation with the Secretary of the Department of Homeland Security, shall award no less than \$1,000,000,000 for public safety interoperable communications grants no later than September 30, 2007 subject to the receipt of qualified applications as determined by the Assistant Secretary.

**JOINT STATEMENT OF
CHAIRMAN KEVIN J. MARTIN
COMMISSIONER MICHAEL J. COPPS
COMMISSIONER JONATHAN S. ADELSTEIN
COMMISSIONER DEBORAH TAYLOR TATE
AND
COMMISSIONER ROBERT M. McDOWELL**

Re: Implementation of the Call Home Act of 2006, WC Docket No. 07-2

We applaud Congress for passing legislation designed to reduce one of the many burdens facing our troops stationed around the globe – the cost of keeping in touch. We are also pleased that the Commission acted quickly to begin its implementation of the Call Home Act. We remain committed to taking any action we can to help keep our military families connected with friends and family at home.