

**STATEMENT OF
COMMISSIONER AJIT PAI
APPROVING IN PART AND DISSENTING IN PART**

Re: *Preferred Long Distance, Inc.*, File No.: EB-TCD-12-00003409.

The evidence in front of the Commission indicates that Preferred Long Distance, Inc., as part of its efforts to convince consumers to switch telephone carriers, misrepresented its relationship with their local telephone company. The Commission should take such deception seriously, and as a result, I agree with our decision to impose a forfeiture of \$880,000 for violations of section 201(b) of the Communications Act.

However, I cannot support levying an additional \$560,000 forfeiture for purported violations of our slamming rules. The Commission complains that Preferred's third-party verifier (TPV) "merely verified the telephone numbers that were associated with the business or residence when, under the Rules, the company was required to elicit the telephone numbers to be switched." But the TPV did more than that. Not only did the TPV ask the customer to verify the relevant telephone number, it then asked the customer whether he or she authorized Preferred to switch his or her "telephone service for this one number." And given that the telephone number verified by the customer, up to that point, was the only number that had been mentioned during the conversation with the TPV, I can't see how there was any confusion about the phone number for which the consumer was consenting to switch service.

To the extent that the Commission is arguing that the TPV did not have the consumer recite the telephone number to be switched but instead asked him or her to confirm the number to be switched, I have my doubts that this distinction matters for purposes of our slamming rules. But assuming for the sake of argument that it does, I do not believe that such conduct warrants the amount of the forfeiture that the Commission imposes here. It is not appropriate to assess \$40,000 per violation both when companies switch consumers' telephone service without any consent whatsoever and when they ask consumers to confirm the phone number to be switched (rather than having consumers to spell out the relevant digits). The former "violation" is much more serious than the latter.