

No.07-552

IN THE
SUPREME COURT OF THE UNITED STATES

SPRINT COMMUNICATIONS COMPANY L.P.
AND AT&T CORP.,
Petitioners,

v.

APCC SERVICES, INC. *ET AL.*,
Respondents.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF OF *AMICUS CURIAE* NETWORK IP, LLC
AND NETWORK ENHANCED TELECOM, LLP
IN SUPPORT OF PETITIONERS

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February 21, 2008

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INTEREST OF *AMICUS CURIAE*

NetworkIP, LLC and Network Enhanced Telecom, LLP,¹ (collectively, “NET”), have a direct interest in the outcome of this matter as they are currently defendants in an action brought by the Respondents APCC Services, Inc. *et al.* (collectively, “Aggregators”) before the Federal Communications Commission (“FCC”) claiming millions of dollars in dial-around compensation. *See, e.g., In the Matter of APCC Services, Inc. et al. v. Network IP, LLC and Network Enhanced Telecom, LLP*, 20 FCC Rcd 2073 (2005) (determining liability for payphone dial around compensation); 22 FCC Rcd 4286 (2007) (awarding damages to Aggregators). Aggregators have also filed a related suit in the United States District Court for the Eastern District of Virginia to collect the damages awarded by the FCC. *APCC Services, Inc. et al. v. Network IP, LLC and Network Enhanced Telecom, LLP*, No. 07-549 (Complaint filed June 5, 2007) (stayed pending review by the D.C. Circuit). The FCC’s finding of liability and damages award are currently under review by the United States Court of Appeals for the District of Columbia Circuit. *Network IP, LLC and Network Enhanced Telecom, LLP v. Federal Communications Commission and United States of America*, No. 06-1364, consolidated with 07-1092 (D.C. Cir., filed April 12, 2007).

¹ Pursuant to Sup. Ct. R. 37, all parties have consented to the filing of this brief, and their letters of consent have been filed with the Clerk of the Court. No party or counsel for any party authored this brief in whole or in part and no person or entity, other than the *Amicus Curiae*, made a monetary contribution to the preparation of this brief.

Unlike the Petitioners and the other *Amicus Curiae* in this case, NET is a small business of approximately 100 employees headquartered in Longview, Texas. NET pioneered an innovative new business model based on advances in telecommunications switching technology. Through this technology, NET provides telecommunications carriers who sell prepaid calling cards to the public a virtual switching platform that enables them to control their calling card products as if they had purchased their own switch—but more efficiently and more cost effectively. NET represents the fulfillment of one of the fundamental goals of the Telecommunications Act of 1996, which was to increase opportunities for entrepreneurs and small businesses in the telecommunications industry and encourage technological innovation. H.R. Rep. No. 104-458, at 136 (1996).

NET, a small company with limited resources, has been forced to wage a nearly decade-long war of attrition with Aggregators. NET has waged this battle because it believes that it fully complied with the payphone compensation rules. The practical consequences discussed below of granting Aggregators standing to pursue claims under §§ 206 and 207 of the Communications Act, 47 U.S.C. §§ 206 and 207, which establish jurisdiction for damages claims for unpaid dial-around compensation, have been disastrous for NET.

SUMMARY OF ARGUMENT

NET hopes that its brief will serve the Court by offering a practical perspective on why Aggregators are precisely that sort of plaintiff that the standing doctrine is intended to block at the courthouse door.

NET is a small business that has had to spend millions of dollars in attorney fees and divert thousands of hours of its management team's time and attention to defending against Aggregators' claims, resulting in immeasurable lost business opportunities, all because of Aggregators' litigation tactics, which effectively use their lack of identity with the payphone owners whose alleged damages they seek to collect as a sword in litigation.

Aggregators have established a practice of filing nearly identical actions for unpaid dial-around compensation against numerous carriers and then claiming ignorance of whether or not the underlying payphone owner has already been made whole for any particular call for which Aggregators claim to seek dial-around compensation. The result is that Aggregators shift their burden of proof to defendants in such actions, thereby presenting defendants with the overwhelming task of figuring out which of the millions of payphone calls that have passed through their switches—in many cases, months or years prior to the date of Aggregators' complaint—are entitled to dial-around compensation, and whether or not the person who owns the payphone from which that call originated has already been paid for a particular call. The Aggregators make this task virtually impossible because they represent more than a thousand individual payphone owners that collectively own hundreds of thousands of individual

payphones. The owners themselves never appear in the case and provide no information that could help identify specific calls or determine whether payments for those calls have already been received.

While Aggregators' complaint against NET was brought before the FCC rather than before a court, as is a plaintiff's option under §§ 206 and 207 of the Communications Act, the difficulties that NET has experienced in attempting to defend against Aggregators' claims are of the same type as those faced by carriers sued by Aggregators in the courts. NET therefore believes that its experience may provide the Court with a clearer view of the practical implications for defendants—and small business defendants such as NET in particular—of the holding that Aggregators have standing to pursue damages claims on behalf of more than a thousand individual payphone service providers.

ARGUMENT

1. NET Is A Very Small Link In The Call Chain.

Based on innovations in switching technology, NET pioneered a business model allowing its telecommunications carrier customers to maintain control over switching capabilities without buying and deploying their own switches. NET's innovative business model gives its customers the ability to maintain and control all of the central economic attributes of their prepaid business through real time access, over the Internet, to the servers that house the requisite switching capability. The capabilities in these switches allow carriers to activate cards, generate PINs, rate calls, keep track

of how much time is left on cards, identify and track calls, capture call-related information, and set prices, including payphone compensation surcharges. NET's virtual switching platform allows its customers to control those switching capabilities just as if they had purchased the switching equipment themselves.

When calling from a payphone, a prepaid calling card user dials the 1-800 number printed on the card. The call is transmitted over a local telephone line to the local telephone company, such as Verizon, that serves the payphone. The local telephone company then hands the call to a long distance carrier, such as Sprint, that delivers the call to NET. NET has contracted with a number of long distance companies, such as Sprint and Global Crossing, to deliver these calls to NET over their long distance networks. In the context of payphone compensation regulation, these long distance companies are known interchangeably as the first facilities-based or underlying interexchange carrier or IXC. Once the call reaches NET, the caller is prompted to enter a PIN number and dial the number of the called party. NET then physically routes the call to another IXC that picks up the call from NET's switch and delivers the call, over its network, to the local telephone company serving the called party. NET thus sits in the middle of the call chain. It does not own any transmission facilities; it owns only switches and servers. It has no contractual relationship with any payphone owners, let alone their putative Aggregator surrogates.

2. Aggregators Use Their Lack Of Identity With The Payphone Owners As A Sword In Litigation.

Aggregators have developed a cottage industry of suing more or less all telecommunications carriers participating in the United States economy for dial-around compensation and then arguing that they cannot reasonably know whether one or more carriers have already paid for the payphone calls for which they claim damages for lack of payment. That is precisely the strategy that Aggregators have used to pursue NET for damages.

Despite the fact that, during the period at issue in this case, Aggregators represented owners of less than a third of the payphones in the United States, they have nonetheless filed the vast majority of payphone compensation cases, filing 129 complaints at the FCC alone in the past six years. *See* Response of Kevin J. Martin, Chairman, to Questions For the Record from the December 5, 2007 Hearing of the House Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet (“Martin Response to Questions”), at Attachments A and B (relevant portions included herewith at Appendix pp. 8a-13a).

During the time at issue in NET’s case and in the case at bar, Payphone Service Providers (“PSPs”) were entitled to no more than a single payment of \$0.24 per call regardless of how many carriers were involved in the call chain and may have undertaken the payment obligation. It is therefore an essential element of a claim for damages based on unpaid dial-around compensation that the compensation is, in fact, unpaid by any carrier.

The FCC's rules concerning which party in the call stream is liable to PSPs for dial-around compensation have changed multiple times over the years, thereby creating uncertainty as to whom the proper payor should be, *see, e.g.*, Martin Response to Questions 2 a, b, and c (summarizing the tortured history of dial-around compensation liability) (App. pp. 2a-7a); *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Report and Order, 18 FCC Rcd 19975, ¶ 8 (2003) (acknowledging payphone rules had caused confusion in the marketplace concerning which carrier is responsible for payment). Capitalizing on this confusion, Aggregators have sued multiple carriers for the same calls. It is therefore likely that the individual payphone owners that Aggregators claim to represent are being paid multiple times for the same calls. NET is certainly not aware of how the Aggregators who, in addition to filing hundreds of complaints and settling scores more, have allocated or plan to allocate the damage awards and settlements that they receive to specific payphone calls made from their customers' payphones that they allege were never compensated.

Allowing Aggregators to sue for dial-around compensation in this manner hampers the already difficult process of assessing damages in these types of cases. Aggregators have little information about their payphone customers regarding the damages that Aggregators claim to be pursuing on their behalf. Indeed, Aggregators argued in their case against NET that the very identity of their PSP customers and how much each claims as damages is irrelevant. This is an astounding claim from an entity that claims to be suing solely on behalf of its

individual PSP customers, to whom Aggregators would distribute any damages that they collect for allegedly uncompensated calls.

According to Aggregators, all the information that NET needed to know was the telephone numbers associated with the payphones owned by its PSP customers and when those payphones were in operation. NET was then saddled with the burden of figuring out whether or not it had participated in any completed, uncompensated calls from those numbers and, if so, how many. NET could, with great difficulty, ascertain whether it received a call from a payphone owned by one of Aggregators' clients, and whether that call was "completed" and thus theoretically compensable. But neither NET nor any other defendant targeted by Aggregators have any way of determining whether any individual payphone owner has in fact already been compensated for any particular call, or whether the individual payphone owner may have had arrangements with other carriers involved in the call chain to exclude those calls from the compensation regime—a common practice.

Aggregators claim to have no way of knowing any of this since they do not share a unity of identity with their PSP clients, and have argued that the burden should be on defendants such as NET to somehow disprove that dial-around compensation is *both* owed *and* unpaid. This is not an academic problem, as NET's carrier customers had contractually agreed to be responsible for paying dial-around compensation to the PSPs, and some of those customers had in fact made payments to Aggregators for calls that passed through NET's switches. It is therefore highly likely that

Aggregators are in fact collecting damages for the same calls from multiple carriers.

With this tactic, Aggregators have managed to shift the burden to defendants, such as NET, Qwest, AT&T, and Sprint, to disprove an essential element of their claims—an element that Aggregators themselves argue is too burdensome to prove in the affirmative—that can only be disproven by evidence of the manner in which the PSPs have divided and allocated the sums obtained through litigation and confidential settlements with other carriers.

Aggregators also claim not to know the dates and times that the purportedly uncompensated calls were made, even though one would expect such basic information to be the starting point for a claim for damages as opposed to an afterthought. Aggregators claim only to know that calls were made from their clients' payphones, based on the telephone number assigned to those payphones, sometime during a particular quarter. NET has had no way to contact the individual PSPs to discover when the allegedly uncompensated calls were made from their payphones. Knowing the date and time of the calls at issue would have at least allowed NET to match up specific calls sent from one of Aggregators' PSP customers' payphones with those that reached NET's switch. Had NET been dealing directly with one or more of the actual payphone owners, these issues could have been readily addressed.

Because of Aggregators' ignorance of the particular facts surrounding their PSP clients' claims, NET had to dedicate enormous resources to going back and reviewing all of its call records for calls made four to six years prior to its litigation

with Aggregators. Because Aggregators were suing on behalf of more than a thousand PSPs that collectively had more than 650,000 individual payphones, the volume of material was overwhelming for a company the size of NET. All told, NET spent months reviewing nearly 15 million call records just to isolate calls sent from Aggregators' customers' payphones for the period between January through November, 2001. APCC, one of the Aggregators, alone submitted a file containing nearly 5 million entries, each entry consisting of a phone number for a payphone of one of its customers, with each number repeated for each quarter for which it was seeking compensation.

In order to avoid totally overwhelming NET's resources, NET agreed under pressure to utilize the results from this review as a proxy for the remaining time periods for which Aggregators sought damages. The end result, however, was completely divorced from any individual payphone owner's telephone or from any specific call for which compensation was allegedly due and owing. How Aggregators will actually distribute millions of dollars in damages to its individual PSP customers for specific calls remains a mystery.

3. These Practical Problems Demonstrate That Aggregators Are Not The Proper Parties To Seek Damages For These Claims.

The Communications Act confers standing upon only a narrow class of individuals to seek damages from common carriers that violate the Act, and basic principles of standing require that a plaintiff be in a position to fully present all facts necessary to litigate

its claim. Aggregators have suffered no direct injury, and use their very lack of direct access to all relevant facts as a sword in litigation. Aggregators therefore are not the proper parties to seek damages for the PSPs' claims.

Section 206 of the Communications Act, 47 U.S.C. § 206, establishes that a common carrier “shall be liable to the person or persons injured” by its violation of the Act. Section 207, 47 U.S.C. §207, then establishes that “[a]ny person claiming to be damaged” by such a common carrier may seek to collect damages from that carrier either in court or at the FCC. The plain language of both of these sections indicates that Congress intended to provide damages only to those directly injured by a common carrier. This Court noted in *Global Crossing Telecommunications, Inc. v. Metrophones Telecommunications, Inc.*, 127 S. Ct. 1513, 1518 (2007), that both Congress and the FCC anticipated that the payphone compensation regime “would permit a *payphone operator*” to sue for unpaid dial-around compensation. (Emphasis added). Aggregators are mentioned nowhere in the Act.

The question of standing involves the nature and source of the claim asserted, including Congressional intent when statutory claims are at issue as they are here. A party such as Aggregators may therefore enjoy standing to pursue damages under the Communications Act only if the Act “can be understood as granting persons in the plaintiff’s position a right to judicial relief.” *Warth v. Seldin*, 422 U.S. 490, 500 (1975). The court has also stated this question as whether the plaintiff is arguably within the zone of interests to be protected by the

statute. *Association of Data Processing Service Organizations v. Camp*, 397 U.S. 150, 153 (1970).

Congress has chosen in other statutes to expand the class of persons enjoying standing to seek relief thereunder to the full limits allowable under Article III, for example granting the right to seek relief to “any party aggrieved” by a statute’s violation. This Court has recognized that when Congress uses such expansive language, it does so with the intention of casting the standing net “beyond the common-law interests and substantive statutory rights upon which ‘prudential’ standing traditionally rested.” *Federal Election Commission v. Akins*, 524 U.S. 11, 19 (1998). Congress chose not to use such broad language in §§ 206 and 207 of the Communications Act, and therefore it is necessary to inquire upon whom it did intend to confer standing.

One of the purposes of requiring a personal stake in the outcome of litigation is to provide the best possible adversarial setting for the full litigation of a dispute, which includes ensuring an appropriate factual setting and the proper motivations of the parties. *See generally* Wright, Miller & Cooper, *Federal Practice and Procedure: Jurisdiction 2d* § 3531.7, at 512 (discussing the role of the “zone of interests” test for standing in assuring that the plaintiff can provide “a detailed fact setting that corresponds to the problems most likely to be encountered in the area of the dispute.”); *Davis v. Passman*, 442 U.S. 228, 239 n.18 (1979) (describing the role of standing as ensuring that a plaintiff possesses that “concrete adverseness which sharpens the presentation of issues upon which the court so largely depends”).

This role of the standing requirement—ensuring that a particular plaintiff is in the best position to present the facts necessary for a complete inquiry—is in part what distinguishes the standing inquiry from the more basic question of whether a private right of action exists for *anyone* under a statute or Constitutional provision. *See Davis*, 442 U.S. at 239 n.18 (distinguishing the issue of standing, which focuses on whether an individual is the proper plaintiff, from the question of whether a cause of action exists for relief of a particular type).

Both the Congressional requirement of direct injury found in sections 206 and 207 of the Communications Act and the more general standing requirement that a plaintiff be in a position to present all relevant facts converge in this case to deny Aggregators standing to sue on behalf of PSPs. While it may be more convenient for PSPs to rely upon Aggregators to litigate their claims for them, the PSPs' convenience does not outweigh the interests of the hundreds of defendants who have been forced to defend against Aggregators' claims without knowledge of whether the underlying PSPs have already been made whole for some or all of the damages alleged by Aggregators in any particular case.

CONCLUSION

The fact that Aggregators do not share a unity of identity with the payphone owners that they claim to represent should not provide them with a sword in litigation; rather, it should provide a basis to deny them standing to sue for dial-around compensation.

Respectfully submitted,

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February 21, 2008

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APPENDIX

U.S HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEE ON TELECOMMUNICATIONS
AND THE INTERNET

OVERSIGHT OF THE FEDERAL
COMMUNICATIONS COMMISSION:
MEDIA OWNERSHIP

QUESTIONS FOR THE RECORD FOR
FEDERAL COMMUNICATIONS COMMISSION
CHAIRMAN KEVIN J. MARTIN

DECEMBER 5, 2007

PLEASE RETURN TO THE SUBCOMMITTEE ON
TELECOMMUNICATIONS AND THE INTERNET
BY JANUARY 18, 2008

* * *

2. **Chairman Martin, I understand that there have been thousands of payphone-related formal and informal complaints filed at the Commission since the payphone provisions of the Communications Act were added in 1996. If that is correct, it suggests there may be a need to reform the Federal Communications Commission's (FCC's) implementation of the payphone provisions to**

ensure that the rules are fair to all entities involved in providing payphone service. So that the Committee can better understand the evolution of the current payphone compensation rules and the status of pending complaints, we would appreciate the following information:

- a. By year of filing, please provide the number of informal and formal payphone compensation complaints, how many of these complaints remain pending, and how many have been resolved. With respect to resolved complaints, please also indicate by year how many have been granted, how many dismissed, how many settled, etc. For each year, please identify the top five complainants, the top five defendants, and the number of formal and informal complaints associated with each.**

Answer:

The Commission recognizes the importance of payphones and we are committed to enforcing the payphone compensation rules. Please refer to Attachment A for the information you requested regarding formal payphone compensation complaints from 1996 through 2007. Please refer to Attachment B for the information you requested regarding informal payphone compensation complaints from 2000 through 2007. The Enforcement Bureau was created in the fall of 1999 and its databases do not track this type of informal complaint prior to 2000.

- b. Please describe which entity or entities are responsible for compensating payphone providers for coinless calls under the Commission's current rules. When was the current rule adopted?**

Answer:

On September 30, 2003, in the *Tollgate Order*, the Commission adopted the current payphone compensation rules to ensure that payphone service providers (PSPs) are fairly compensated for each and every completed, payphone-originated call, as required under section 276 of the Telecommunications Act of 1996. The *Tollgate Order* and its implementing rules became effective on July 1, 2004.

In the *Tollgate Order*, the Commission placed the obligation to compensate PSPs for coinless calls on the "Completing Carrier." In our rules, a "Completing Carrier" is defined as "a long distance carrier or switch-based long distance reseller that completes a coinless access code or subscriber toll-free payphone call or a local exchange carrier that completes a local, coinless access code or subscriber toll-free payphone call." This facilities-based long distance carrier is the switch-based reseller (SBR) or interexchange carrier that completes the call on a switch that it owns or leases.

In satisfying its liability obligation to a PSP, the completing carrier must establish its own call tracking system, have a third party attest that the system accurately tracks payphone calls to completion, and pay a PSP

directly based on the completing carrier's own call tracking data. Other facilities-based long distance carriers in the call path, if any, must provide reports to the PSPs of payphone-originated calls switched to another facilities-based carrier's platform.

- c. Please explain what entity or entities were responsible for compensating payphone providers under the prior rules. Please describe each such rule and indicate when each prior rule was adopted.**

Answer:

Since 1996, the Commission has issued a number of orders that have defined the relationship between PSPs and other carriers in the call path from the payphone to the called party for purposes of assuring that PSPs are adequately compensated for calls placed from payphones. In our prior orders, the Commission has identified three categories of such entities, depending on whether such entity completed the payphone originated call: (1) facilities-based long distance carriers (usually the IXCs); (2) switchless long distance resellers; and (3) switch-based resellers (SBRs).

IXCs Responsible. On September 20, 1996, in the *First Payphone Order*, the Commission adopted a "carrier-pays" system for per-call compensation, concluding that "the primary economic beneficiary of payphone calls should compensate the PSPs." The Commission concluded that the primary economic beneficiary was the IXC

and required “all IXCs that carry calls from payphones [. . .] to pay per-call compensation.” The Commission recognized that switchless long distance resellers do not have the facilities to track calls. In the interests of lower costs and administrative efficiency, the Commission required facilities-based carriers to pay for calls received by their long distance reseller switchless customers and then, if they so chose, “to impose the payphone compensation amounts on these [reseller] customers.”

SBR Responsible. On November 19, 1996, in the *Order on Reconsideration*, the Commission addressed the payphone compensation responsibilities for calls involving resellers that maintain their own switches. Recognizing that SBRs were the primary economic beneficiary of payphone calls and were capable of tracking calls, the Commission imposed on SBRs the responsibility to pay compensation to the PSPs.

First Facilities-Based IXC Responsible. On March 28, 2001, in response to a Petition for Clarification of the Rules, in the *Second Order on Reconsideration*, the Commission made the following findings. The Commission revised its rules to address the difficulty that PSPs face in obtaining compensation for coinless calls placed from payphones that involve an SBR in the call path. In the *Second Order on Reconsideration*, the Commission adopted rules re-

quiring the first facilities-based IXC to which a LEC routes a compensable coinless payphone call to: (1) compensate the PSP for completed calls at a mutually agreeable rate; (2) track or arrange for tracking of the call to determine whether it is completed and therefore compensable; and (3) provide to the PSP a statement of the number of coinless calls it receives from each of that PSP's payphones. The Commission required each reseller or debit card customer whose number is dialed on a coinless basis to reimburse the first facilities-based carrier (1) for the amount paid by that carrier to the PSP and (2) for that carrier's cost of tracking the call and providing such information to the PSP. The Commission also encouraged PSPs and SBRs to enter into private contractual arrangements with each other for direct payment of compensation to PSPs.

In January 2003, on a petition for review, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated and remanded the *Second Order on Reconsideration* on the grounds that parties were not afforded proper notice and opportunity for comment. The D.C. Circuit vacated the Commission's order, but stayed its mandate and its vacatur of the *Second Order on Reconsideration* through September 30, 2003. As a result, the rules promulgated in the *Second Order on Reconsideration* remained in effect through September 30, 2003.

Completing Carrier Responsible. On September 30, 2003, the Commission adopted the current payphone compensation rules in the *Tollgate Order*, which placed payphone compensation liability on the Completing Carrier. Instead of assigning liability to the *first* facilities-based IXC, who had no relationship to the customer, the Commission imposed liability on the “primary economic beneficiary” of the payphone-originated call, *i.e.*, the facilities-based carrier that sold the dial-around service to end-user customers and that can recover payphone compensation from its customers.

Until the new *Tollgate Order* rules could become legally effective, the Commission adopted, for a limited period, the rules originally adopted in the *Second Order on Reconsideration* until the current payphone rules became effective on July 1, 2004.

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ATTACHMENT A

| Formal Payphone Compensation Complaints | | | | | | | |
|---|-------------|---------------|---------|--------|-----------------------|--|---|
| Year | Total Filed | Still Pending | Granted | Denied | Settled and Dismissed | Top 5 Complainants (number of complaints) | Top 5 Defendants (number of complaints) |
| 1996 | 0 | 0 | - | - | - | - | - |
| 1997 | 1 | 0 | - | - | 1 | International (1) | Sprint (1) |
| 1998 | 10 | 0 | 9 | - | 1 | Pacific Bell (7) Ameritech (2) US West (1) | Frontier (8) MCI (2) |
| 1999 | 2 | 0 | - | - | 2 | US West (1) Ameritech (1) | Frontier (2) |
| 2000 | | | | | | US West (1) Ameritech (1) | Oncor Communications (1) One Call Communications (1) |
| 2001 | 0 | 0 | - | - | - | - | - |
| 2002 | 8 | 0 | 2 | 3 | 3 | APCC (8) | Advanced Business Tel. (1) Bee Line Long Distance (1) Gadjraj & Sons Import and Export (1) Orion Telecommunications (1) Tekbilt World Communications (1) TS Interactive, Inc. (1) United Tech Systems (1) Vertex Group (1) |
| 2003 | 3 | 0 | 1 | - | 2 | APCC (2) Qwest (1) | Cable & Wireless (1) NetworkIP (1) ATX Communications (1) |
| 2004 | 0 | 0 | - | - | - | - | - |

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[FOLD-IN]

Formal Payphone Compensation Complaints

| Year | Total Filed | Still Pending | Granted | Denied | Settled and Dismissed | Top 5 Complainants (number of complaints) | Top 5 Defendants (number of complaints) |
|-------------|--------------------|----------------------|----------------|---------------|------------------------------|--|---|
| 2005 | 12 | 1 | 1 | 1 | 9 | A Telecom (6) APCC (5) Verizon (1) | Tel-America (2) Capsule Communications, Inc. (2) IDT Corp. (1) Operator Communications, Inc. (1) Intelligent Switching & Software/Radiant (1) CommuniGroup of KC, Inc. (1) Centris Information Services (1) PAC-WEST Telecom (1) T-Netix, Inc. (1) Qwest (1) |
| 2006 | 1 | 0 | - | - | 1 | Western Payphone Systems (1) | World Communications Group (1) |
| 2007 | 0 | 0 | - | - | - | - | - |

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[FOLD-IN]

ATTACHMENT B

| Informal Payphone Compensation Complaints | | | | | | | |
|---|-------------|---------------|---|--------|-----------------------|--|--|
| Year | Total Filed | Still Pending | Granted | Denied | Settled and Dismissed | Top 5 Complainants (number of complaints) | Top 5 Defendants (number of complaints) |
| 2000 | 40 | 0 | Under the applicable Commission rules (47 C.F.R. §§ 1.716-1.736), an informal payphone compensation complaint does not result in a Commission resolution on the merits. Rather, the parties settle their dispute (often with Commission staff assistance), or the complainant files a formal complaint. | | | US West (12) Fort Mill Telecom (9) Lancaster Telephone (9) Rock Hill (9) GTE (1) | BTI (6) Cable & Wireless (5) Sprint (5) Excel (4) MCI (4) |
| 2001 | 2 | 0 | | | | Qwest (2) | Focal (1) Transcommunication, Inc. (1) |
| 2002 | 64 | 0 | | | | APCC Services (55) Verizon (8) Qwest (1) | Network IP/NET/NOS (5) Dancris Telecom (3) Verizon (2) ALLTEL (2) AT&T (2) RSL Communications (2) Gateway (2) US Advanced Net (2) ATX (2) CCI (2) |
| 2003 | 3 | 0 | | | | APCC Services ¹ (3) | ARC Networks (1) Telstar (1) Network Enhanced (1) |

¹ APCC Services serves as a billing and collections agent representing its numerous member payphone service providers in each complaint.

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| Informal Payphone Compensation Complaints | | | | | | | |
|---|-------------|---------------|---------|--------|-----------------------|---|--|
| Year | Total Filed | Still Pending | Granted | Denied | Settled and Dismissed | Top 5 Complainants (number of complaints) | Top 5 Defendants (number of complaints) |
| 2004 | 16 | 0 | | | | APCC Services (8) Verizon (5) WBC (1) OCI (1) Bulletins (1) | Tele-America (4) Pac-West (3) Qwest (1) ATX (1) CCL (1) OCI (1) Verizon (1) AT&T (1) One Call (1) Covista (1) OCMC (1) |

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[FOLD-IN]

| Informal Payphone Compensation Complaints | | | | | | | |
|---|-------------|---------------|---------|--------|-----------------------|---|--|
| Year | Total Filed | Still Pending | Granted | Denied | Settled and Dismissed | Top 5 Complainants (number of complaints) | Top 5 Defendants (number of complaints) |
| 2005 | 28 | 0 | | | | Western Payphone Systems (15) Bulletins (10) ComTech (1) LittleJohn Communicaitons (1) Nevada Tel (1) | Intelco (3) Acceris Communications Co. (1) Capital Telecommunications(1) T-Netix, Inc. (1) Network Operator Services (1) Midwest Wireless Holdings (1) Shared Communications Services (1) The CommuniGroup of KC (1) Capsule Communications/Covista (1) Long Distance of Michigan (1) Navigator Telecom (1) WesTel, Inc. (1) KDI Distribution, Inc. (1) Korea Telecom America, Inc. (1) International Telecom Exchange (1) KDDI America, Inc. (1) 88 Telecom Corporation (1) Network Enhanced Technology (1) Mpower Communications Co. (1) ITG Services, LLC (1) Next-G Communications, Inc. (1) Novatel, Ltd. (1) Global Network Communications (1) Belmont Telecom, Inc. (1) Transcon Communications (1) Maskina Communications, Inc. (1) |

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[FOLD-IN]

| Informal Payphone Compensation Complaints | | | | | | | |
|--|--------------------|---|----------------|---------------|------------------------------|---|---|
| Year | Total Filed | Still Pending | Granted | Denied | Settled and Dismissed | Top 5 Complainants (number of complaints) | Top 5 Defendants (number of complaints) |
| 2006 | 70 | 27 (16 remain pending at the request of the complainant) | | | | APCC (48) G-Five (10) AT&T (4) Western Payphone Systems (2) Verizon (1) Global Network Communications (1) PayPhones North, Inc. (1) Orion Payphones LLC (1) Superior (1) Rollo Hodgamar & Associates (1) | Compass Global (5) Intelco (4) BAK/Miriam/LATAOne (4) Telefyne (3) NextG (3) Southwest iNet (3) Geo Group (3) |
| 2007 | 38 | 24 | | | | PBS Telcom (16) C&M (8) G-Five (3) AT&T (3) Pinnacle Public (2) Western Payphones (2) | West Star (5) International Telcom Exchange (2) Global Network Communications (2) Triple Tiger Trading (2) Miriam (2) |