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*Staff's policy for blocking dialaround calls*

Given the findings of the May 28 workshop that local exchange carriers (LECs) have little exposure to uncollectibles from nonpayment of toll because unpaid toll bills are recoured to the interexchange carriers (IXCs), it is not surprising that AT&T and MCI -- the two largest IXCs operating in Ohio -- would like to have available a collection toll not available to any firm in other industries. That is precisely what they would have under Staff's proposal: The LEC would be able to block a customer's access to all IXC -- until and unless the customer rePICed to another carrier, in order to ensure payment to a particular IXC. Even after the rePICing, customers' dialaround access would be blocked. Neither AT&T nor MCI explain why this use of the local service bottleneck is necessary or in the public interest.

Staff's proposal addresses the "problem" of dialaround calling. Ameritech Ohio states that "[a]ccess to dial-around long distance calling creates many problems for the industry as a whole, and for Ameritech Ohio in particular." Ameritech Ohio at 1; see also OTIA at 1. Yet given the recourse provisions, and the fact that -- as of yet -- Ameritech Ohio has no "dialaround" service of its own, it is difficult to see what the problem is. Ameritech Ohio fails to explain.

The industry has taken full advantage of the "casual" aspects of dialaround calling, allowing customers to use an IXC's services without a presubscription relationship, as compellingly seen from the broad marketing of the service. (The LECs reap revenues from billing for the dialaround calls.) Yet the industry also seeks special protection from the main factor that makes dialaround calling attractive -- that there is no screening of customers prior to dialaround usage. In a competitive marketplace, firms

must take the bitter with the sweet, the downs with the ups, and cannot rely on a bottleneck arrangement to reduce their exposure. No such protection should be extended to the IXC's in this context.

Ameritech Ohio describes Staff's proposal as a modification of Commission policy "to permit a toll blocked customer to obtain 1+ toll access via the carrier that will accept the subscriber as a customer, *but no other form of toll access.*" Ameritech Ohio at 2 (emphasis in original). This heightens the over-reaching nature of the Staff proposal: A customer whose intraLATA toll service from Ameritech Ohio was unpaid, and resulted in toll blocking, would be denied access to dialaround service, *even though the customer was never in default of payment for dialaround calls.*

AT&T states (at 1) that Ameritech Ohio "has taken the position that it will not bill dial-around calls for dePICed customers regardless of the [long distance] carrier." This action appears to conflict with standing Commission policy.<sup>1</sup> More importantly, although AT&T sees Staff's proposal as "help [to] address this issue" (AT&T at 1), Ameritech Ohio's practice in fact places the onus of dealing with carrier collection problems where it belongs, back on the dialaround carriers, who must find alternative ways of billing for their calls.

AT&T (at 2) states that "[d]ue to the multitude of alternatives to long distance services, there would be no incentive for the customer to satisfy debts when the universal block is lifted." As discussed in the next section, the actual incentives available would be

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<sup>1</sup> We express no opinions as to whether Ameritech Ohio's actions may violate the terms of the billing and collection contracts that Ameritech Ohio presumably has with the dialaround carriers, including AT&T.

those available in all other sectors of the economy -- and under the same constraints -- rather than the special status that the IXC's and the LEC's seek for telephone service.<sup>2</sup>

*Reporting of customer information*

All four of the industry commentators objected to Staff's proposal that a customer must give consent for the disclosure of information regarding the customer's account status with one IXC to other IXC's. Here again, the industry seeks special status for telecommunications industry collection activities.

AT&T objects based on the fact that without disclosure of customer information -- i.e., that a customer has been blocked -- "carriers cannot protect themselves against any further leakage." AT&T at 3; see also *id.* at 4. If "leakage" is defined as dial-around calling, it is not clear that if dial-around carriers were informed that a specific customer were blocked, the dial-around carriers would be able to block that customer from their service. There has been no indication that the dial-around carriers are capable of such selectivity.

Further, AT&T's position effectively assumes that, upon blocking a customer, a LEC would have to inform *all* IXC's -- dial-around and presubscribed alike -- of that fact. First, it also does not appear that the LEC's are capable of such broadcasts. Second, this is an issue that should have been brought up in the original comments in 95-790 and no later than the MTSS comments; this is hardly an issue new to the question of leakage.

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<sup>2</sup> AT&T states (at 2) that the Commission should "assure that all LEC's are capable of implementing the processes set forth in the Staff proposal. In the event they are not, the Commission should reassess whether it would make sense to restrict the ability of a customer to rePIC -- at all -- until they have satisfied their indebtedness." AT&T's recommendation would require the Commission to deny a customer's access to *all* toll carriers -- presubscribed and dial-around both -- to ensure collection of the indebtedness to a particular dialaround carrier.

AT&T further indicates (at 3) that all LECs must report all dePICs and all rePICs to all IXC. All this in the name of "allow[ing] an IXC to make a determination if it is willing to accept the uncollectible risk." *Id.* IXCs should not have any greater access to information than is provided by the (highly-regulated) credit bureaus, as discussed below.<sup>3</sup>

Despite the fact that sharing such blocking information would not solve the leakage problem, the carriers still protest against the consent requirement. Ameritech Ohio states that information regarding blocking status "is really no different than credit information, which can be -- and oftentimes is -- obtained without the customer's consent." Ameritech Ohio at 4; see also MCI at 2.

This position obscures the very significant differences between the sharing of credit bureau information -- with its attendant restrictions and other consumer protections -- and the sharing among carriers of a customer's blocking status or other account information. Such informal sharing among a consumer's creditors (LECs and IXCs alike) would give rise to serious questions about liability for inaccurate information. Further, if a carrier circulates information other than its own experience, it could qualify as a "credit reporting agency" under federal law. 15 U.S.C. § 1681a(f).

The sharing of consumer information by credit reporting agencies is allowed where: 1) the consumer has a right to a copy of the credit report (15 U.S.C. § 1681g); 2) the consumer has a right to challenge incorrect information in the report (15 U.S.C. 1681i(a)); and 3) the consumer has the right to have comments placed in the report

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<sup>3</sup> AT&T also asserts that "LECs must be required to notify IXCs if a customer is universally blocked." AT&T at 3. Under the Commission's current policies, no customer should be universally blocked. AT&T's requirement would add another complication to the adoption of the Staff's proposal.

showing the customer's side of the story. 15 U.S.C. 1681I(c). The carriers seek access to information that is not bound by these conditions; hence they seek to take an advantage over other creditors by virtue of being telecommunications providers.

Ameritech Ohio (at 4) and OTIA (at 2) argue that § 222(d)(1) of the 1996 Act exempts billing and collection information from the general protections afforded customer proprietor network information. What the statute actually says is that "Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers ... (1) to initiate, render, bill and collect for telecommunications services...." This is hardly a license for sharing information with other carriers with regard to customers' credit histories. Further, § 222(d)(1) does not exempt such information from federal consumer protection legislation.<sup>4</sup>

It should also be noted that in the Minimum Telephone Service Standards docket, MCI argued that "a procedure should be put in place which would enable LECs and IXC's to share customer information regarding credit, toll usage caps, toll blocking or restoration, payment status/delinquencies and other information." Case No. 96-1175-TP-ORD, Finding and Order (June 26, 1997) at 28. The Commission declined to adopt this suggestion. Hence the carriers' arguments for sharing without consent are really belated attempts to reargue this issue.

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<sup>4</sup> AT&T states that "requiring all carriers to report to the credit bureaus is preferred." This is a global solution that should require broader consideration than available in these reply comments.

*The intra/interLATA issue*

Ameritech Ohio objects to Staff's recommendations that interLATA toll and intraLATA toll be treated separately for the purposes of the presubscription issues contained in Staff's proposals. To the extent that customers may subscribe to different carriers for intraLATA and interLATA toll, a blocking of one carrier for, *e.g.*, intraLATA toll should not impact on the customer's presubscription to the interLATA carrier. Ameritech Ohio's claim is that such a policy "would require massive systems and operational changes in payment allocation processes by Ameritech Ohio and perhaps other local exchange carriers." Ameritech Ohio at 3.

It should be recalled that -- for Ameritech Ohio specifically -- the existence of the inter- and intraLATA distinction is based only on the fact that Ameritech Ohio has not yet met the local market-opening conditions of § 271 of the Act. To the extent that Ameritech Ohio meets those requirements, the distinction should go away, both for Ameritech Ohio and for all other carriers. Thus it could be argued that imposing additional cost as a result of the distinction is an additional incentive for Ameritech Ohio -- and its new owner SBC -- to meet the § 271 checklist.

More importantly, however, Ameritech Ohio recognizes (at 3) that Staff's proposal is a logical extension of the interLATA/intraLATA presubscription distinction. Where a customer has different inter- and intraLATA toll providers, default in payment to one carrier should not be allowed to bar the customer's access to the carrier to which the customer is not in default.

OTIA has the practical solution to this problem, stating that "[u]nless specifically directed by the customer, partial payments are equally apportioned to intraLATA and

interLATA toll services, with no distinction between providers.” OTIA at 2. Thus unless the customer has specifically directed the payments, insufficient payments will allow blocking of both inter- and intraLATA carriers.

### *Conclusion*

The industry commenters have not provided additional justification for Staff’s proposed “selective access policy.” In fact, the industry comments show that the selective access policy is an attempt to provide the dial-around segment of the industry with special protections.<sup>5</sup> In that same regard, the industry objections to Staff’s proposal to bar informal information sharing among the carriers shows a desire to have special treatment for telecommunications carriers, by allowing them easy access to information that other firms are not able to obtain.

Finally, the industry comments also demonstrate the need -- as argued in the OCC/Edgemont initial comments -- for a clearer definition and understanding of the differences between “selective toll blocking” and “dePICing.” As set out in the OCC/Edgemont initial comments, the difference is that selective toll blocking allows blocking of all calls -- presubscribed and dial-around -- through a particular carrier, whereas dePICing only prevents calls from being made to the previously-PICed carrier on a 1+ basis (and thus allows dial-around calling even from the previously-PICed carrier).

As shown herein and in the initial comments, the first option (true “selective toll blocking”) is the policy that most closely comports with the operations of traditionally-

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<sup>5</sup> Which segment is, of course, currently dominated by operations affiliated with AT&T and MCI.



competitive markets. That should be the regulatory principle that this Commission follows in this context.

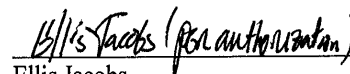
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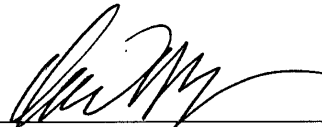


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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Reply Comments of the Ohio Consumers' Counsel and the Edgemont Neighborhood Coalition was served by first class mail, postage prepaid, or hand-delivered on the parties identified below this 15<sup>th</sup> day of November, 1999.



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