Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

GLOBAL CROSSING TELECOMMUNICATIONS, INC. *v.* METROPHONES TELECOMMUNICATIONS, INC.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 05–705. Argued October 10, 2006—Decided April 17, 2007

Under authority of the Communications Act of 1934, the Federal Communications Commission (FCC) regulates interstate telephone communications using a traditional regulatory system similar to what other commissions have applied when regulating other common carriers. Indeed, Congress largely copied language from the earlier Interstate Commerce Act, which authorized federal railroad regulation, when it wrote Communications Act §§201(b) and 207, the provisions at issue. Both Acts authorize their respective commissions to declare any carrier "charge," "regulation," or "practice" in connection with the carrier's services to be "unjust or unreasonable"; declare an "unreasonable," *e.g.*, "charge" to be "unlawful"; authorize an injured person to recover "damages" for an "unlawful" charge or practice; and state that, to do so, the person may bring suit in a "court" "of the United States." Interstate Commerce Act §§1, 8, 9; Communications Act §§201(b), 206, 207. The underlying regulatory problem here arises at the intersection of traditional regulation and newer, more competitively oriented approaches. Legislation in 1990 required payphone operators to allow payphone users to obtain "free" access to the long-distance carrier of their choice, *i.e.,* access without depositing coins. But recognizing the "free" call would impose a cost upon the payphone operator, Congress required the FCC to promulgate regulations to provide compensation to such operators. Using traditional ratemaking methods, the FCC ordered carriers to reimburse the operators in a specified amount unless a carrier and an operator agreed to a different amount. The FCC subsequently determined that a carrier's refusal to pay such compensation was an "unreasonable practice" and thus unlawful under §201(b). Respondent payphone operator brought a federal lawsuit, claiming that petitioner long-distance carrier (hereinafter Global Crossing) had violated §201(b) by failing to pay compensation and that §207 authorized respondent to sue in federal court. The District Court agreed that Global Crossing's refusal to pay violated §201(b), thereby permitting respondent to sue under §207. The Ninth Circuit affirmed.

Held: The FCC's application of §201(b) to the carrier's refusal to pay compensation is lawful; and, given the linkage with §207, §207 authorizes this federal-court lawsuit. Pp. 7–19.

(a) The language of §§201(b), 206, and 207 and those sections' history, including that of their predecessors, Interstate Commerce Act §§8 and 9, make clear that §207's purpose is to allow persons injured by §201(b) violations to bring federal-court damages actions. The difficult question is whether the FCC regulation at issue lawfully implements §201(b)'s "unreasonable practice" prohibition. Pp. 7–9.

(b) The FCC's §201(b) "unreasonable practice" determination is reasonable, and thus lawful. See *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837, 843–844. It easily fits within the language of the statutory phrase. Moreover, the underlying regulated activity at issue resembles activity long regulated by both transportation and communications agencies. Traditionally, the FCC, exercising its rate-setting authority, has divided revenues from a call among providers of segments of the call. Transportation agencies have similarly divided revenues from a larger transportation service among providers of segments of the service. The payphone operator and long-distance carrier resemble those joint providers of a communication or transportation service. Differences between the present "unreasonable practice" classification and more traditional regulatory subject matter do not require a different outcome. When Congress revised the telecommunications laws in 1996 to enhance the role of competition, creating a system that relies in part upon competition and in part upon the role of tariffs in regulatory supervision, it left §201(b) in place. In light of the absence of any congressional prohibition, and the similarities with traditional regulatory action, the Court finds nothing unreasonable about the FCC's §201(b) determination. *United States* v. *Mead Corp.*, 533 U. S. 218, 229. Pp. 9–12.

(c) Additional arguments made by Global Crossing, its supporting *amici* and the dissents—that §207 does not authorize actions for violations of regulations promulgated to carry out statutory objectives; that no §207 action lies for violations of substantive regulations promulgated by the FCC; that §§201(a) and (b) concern only practices that harm carrier customers, not carrier suppliers; that the FCC's "unreasonable practice" determination is unlawful because it is inadequately reasoned; and that §276 prohibits the FCC's §201(b) classification—are ultimately unpersuasive. Pp. 12–19.

423 F. 3d 1056, affirmed.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, SOUTER, GINSBURG, and ALITO, JJ., joined. SCALIA, J., and THOMAS, J., filed dissenting opinions.