

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals)	
with Hearing and Speech Disabilities)	
)	
Truth-in-Billing and Billing Format)	CG Docket No. 98-170
)	
ITTA Petition for Declaratory Ruling)	
Regarding TRS Line Item Descriptions)	

COMMENTS OF CTIA

CTIA¹ hereby submits these comments in response to the Petition for Declaratory Ruling filed by ITTA—The Voice of America’s Broadband Providers (“ITTA”) in the above-captioned proceedings (the “Petition”).² As described herein, CTIA urges the Commission to grant the Petition.

I. INTRODUCTION.

In its Petition, ITTA asks the Commission, to confirm that it is, and always has been, permissible for a telecommunications carrier recovering Telecommunications Relay Services

¹ CTIA® (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless carriers, device manufacturers, and suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry, and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² Petition for Declaratory Ruling of ITTA – The Voice of America’s Broadband Providers, CG Docket Nos. 03-123 and 98-170 (filed May 8, 2018) (“Petition”).

(“TRS”) Fund contributions via an end-user cost recovery fee line item, or the like, to include TRS, among other references, in the line item description on customers’ bills.³

CTIA and its member companies are strongly committed to providing clear information to consumers that can help them make informed choices when selecting their wireless service, including through providing clear information on consumers’ bills. CTIA’s Consumer Code for Wireless Service (“Code”), for example, specifically requires that carriers separately identify carrier charges from taxes on billing statements, and prohibits labeling cost recovery fees or charges as taxes.⁴

CTIA agrees with ITTA that, consistent with past precedent and guidance, the Commission should issue a declaratory ruling confirming that telecommunications carriers may include TRS among other references in a line item description. Such action will provide regulatory certainty regarding a common and pro-consumer industry practice.

II. THE COMMISSION SHOULD CONFIRM CARRIERS’ FLEXIBILITY TO INCLUDE TRS AMONG OTHER REFERENCES IN A COST RECOVERY FEE LINE ITEM DESCRIPTION.

Consistent with past Commission precedent and guidance, the Commission should grant the Petition and affirm that carriers have flexibility to determine how best to describe end-user cost recovery fees, including those related to TRS Fund contributions, in the way they believe best provides consumers with useful information.

When it first adopted “truth-in-billing” principles, the Commission recognized the complexity involved in carrier practices regarding collecting and informing customers about regulatory fees, and how such practices impact consumers’ understanding of such fees. The

³ As ITTA explains, based on the statute and Commission guidelines, carriers are free to recover TRS costs from their customers either as part of their rates or via a non-specifically identified charge on their customers’ bills. *See id.* at 6.

⁴ CTIA, Consumer Code for Wireless Service, <https://ctia.org/initiatives/voluntary-guidelines/consumer-code-for-wireless-service> (last visited June 18, 2018).

Commission declined to take a prescriptive approach as to how carriers can recover such costs, despite requests by some commenters to specifically prohibit regulatory fee line items (or even prohibit line items altogether).⁵ Instead, the Commission “afford[ed] carriers the freedom to respond to consumer and market forces individually, and consider whether to include these charges as part of their rates, or to list the charges in separate line items.”⁶ Moreover, as the Commission explained, it had “not mandated or limited specific language that carriers utilize to describe the nature and purpose of [regulatory] charges; each carrier may develop its own language to describe these charges in detail.”⁷ Ultimately, the Commission recognized that “so long as [it] ensure[d] that consumers are readily able to understand and compare these charges, competition should ensure that they are recovered in the appropriate manner.”⁸

Consumer and market forces have led to carriers’ approaches today. Carriers prepare consumers’ bills in a way that provides a brief, clear, non-misleading, plain language description of the charges,⁹ while also vigorously competing with each other on price and other measures. In the end, the consumer wins. This is particularly true in the competitive wireless marketplace.

Moreover, as noted above, CTIA’s Consumer Code specifically requires that carriers separately identify carrier charges from taxes on billing statements, and prohibits labeling cost

⁵ *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7526 ¶ 55 (1999) (“*First TIB Order*”) (“[S]everal commenters assert that service providers should be required to combine all regulatory fees into one charge, or should be prohibited from separating out any fees resulting from regulatory action. Other commenters urge us to go even farther and require carriers to include on bills per-minute rates that include all fees associated with the service.”).

⁶ *Id.*

⁷ *Id.* at 7530 ¶ 60.

⁸ *Id.* at 7526-27 ¶ 55.

⁹ See 47 C.F.R. § 64.2401(b) (“Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.”).

recovery fees or charges as taxes.¹⁰ In this regard, the Code is designed to provide consumers clear and accurate information about which charges are collected and retained by the carrier, as opposed to those that are collected by the carrier and remitted to federal, state, or local governments.¹¹ Today, carriers serving nearly 97 percent of wireless subscribers are signatories to the Code and are committed to following the Code’s billing statement obligations.

Current practices, including with respect to recovering TRS Fund contributions, also have been closely calibrated to Commission precedent and guidance through the years. As ITTA explains, in an order on the American with Disabilities Act, the Commission indicated that carriers should “recover interstate TRS costs as part of the cost of interstate telephone service and not as a specifically identified charge on subscribers’ lines.”¹² However, as ITTA notes, the Commission has never “elaborated upon its nearly three-decade-old, unexplained prohibition on a ‘specifically identified charge on subscribers’ lines’ for TRS costs.”¹³ For example, in the *Second Truth-in-Billing Order*, while the Commission indicated that under the requirement, “carriers may not recover interstate TRS costs as a specifically identified line item,”¹⁴ the Commission never suggested that carriers could not include TRS, among other references, in an end user cost recovery fee line item description.¹⁵

¹⁰ CTIA, Consumer Code for Wireless Service, <https://ctia.org/initiatives/voluntary-guidelines/consumer-code-for-wireless-service> (last visited June 18, 2018).

¹¹ *Id.*

¹² Petition at 2 (quoting *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Report and Order and Request for Comments, 6 FCC Rcd 4657, 4664 ¶ 34 (1991)).

¹³ *Id.* at 4 (citing *Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates’ Petition for Declaratory Ruling Regarding Truth-in-Billing*, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, 20 FCC Rcd 6448, 6464 ¶ 31 n.86 (2005) (“*Second TIB Order*”), *rev’d on other grounds sub nom. NASUCA v. FCC*, 457 F.3d 1238 (11th Cir. 2006)).

¹⁴ See *Second TIB Order*, 20 FCC Rcd at 6464 ¶ 31 n. 86.

¹⁵ Indeed, a government prohibition on non-misleading speech would seem to run afoul of the First Amendment. See *Cent. Hudson Gas & Elec. Corp. v. Public Serv. Comm’n*, 447 U.S. 557, 564 (1980) (government’s power is

Other Commission explanations have reinforced this flexible approach. For example, in discussing Video Relay Service costs, which are paid from the TRS Fund, the Commission has indicated that such costs “are passed on to all consumers of telecommunications service ... either *as a surcharge on their monthly service bills* or as part of the rate base for the state’s intrastate telephone service.”¹⁶ Also, guidance to consumers available on the Commission’s website asserts “TRS charges” can be found among other “typical charges” on their telephone bills, *i.e.*, as part of an identified regulatory fee line item.¹⁷

In sum, the Commission has appropriately favored a flexible approach to billing practices. With respect to recovering TRS Fund contributions specifically, the Commission has signaled support for carriers to best determine how to include and describe such fee. The Commission should now resolve any remaining uncertainty regarding carriers’ flexibility to describe end-user cost recovery fee line items, including those related to TRS Fund contributions by granting ITTA’s request.

circumscribed where communication is neither misleading nor related to unlawful activity); *44 Liquormart v. Rhode Island*, 517 U.S. 484, 496 (1996) (the First Amendment protects the dissemination of truthful and non-misleading commercial messages about lawful products and services). Granting the Petition therefore also reduces, but does not eliminate, the risk of a First Amendment violation.

¹⁶ *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Further Notice of Proposed Rulemaking, 26 FCC Rcd 17367, 17409 ¶ 103 n.209 (2011) (emphasis added).

¹⁷ See Petition at 5 (citing FCC, Consumer Guides, Understanding Your Telephone Bill (Feb. 16, 2018), <https://www.fcc.gov/consumers/guides/understanding-your-telephone-bill>).

III. CONCLUSION.

For the forgoing reasons, the Commission should grant the Petition and issue the requested declaratory ruling. In doing so, the Commission would provide regulatory certainty regarding a common and pro-consumer industry practice.

Respectfully submitted,

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