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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of:	)	
	)	
Policies and Rules Implementing	)	CC Docket No. 93-22
the Telephone Disclosure and	)	RM-7990
Dispute Resolution Act	)	

REPLY COMMENTS OF THE UNITED STATES TELEPHONE ASSOCIATION

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SUMMARY

Absent massive, wholesale upgrade to the local exchange carriers' (LECs) central office switches, selective blocking is technically infeasible at this time. The technology necessary to deploy such functionality is not available in almost every case; and even if it is conceptually possible to deploy in some cases, it may not be compatible with a particular LEC's switch.

All interstate pay-per-call services should be assigned to a 900 service access code (SAC) number, rather than using different SAC numbers. Uniform access through the 900 SAC will enable customers to differentiate between pay-per-call and other services. Customer recognition is a major factor in avoiding misperception and abuses in pay-per-call services. It would not be in the public interest for the Commission to mandate the use of specific service access codes for intrastate pay-per-call services.

Absent adoption of a costly 900 database, the same NXX code cannot also be used to identify a specific program category. The Commission should not consider requiring a 900 database access framework without first balancing the costs and benefits of such a proposal.

The Commission should modify its proposed billing and collection and information disclosure rules. The names, addresses and other data concerning the information service provider should not be routinely disclosed on the monthly bill. Rather, the monthly bill should provide either a 1-800 toll free number or a business number to access the carrier or service provider. The Commission's proposed rules herein should align with those contemplated by the Federal Trade Commission (FTC).

The term "presubscription or comparable arrangement" under the proposed rule § 64.1501 should be clearly defined. Ordinary telephone credit card transactions should not be subject to pay-per-call rules.

While the compliance costs resulting from the proposed pay-per-call rules may be insignificant, under some of the FTC's proposals, the compliance cost may substantially increase. To comply, the carriers' billing and record keeping systems may have to be revamped. Smaller LECs will be particularly hard hit. The Commission's proposed rules should take into consideration the technical and economic constraints of all carriers.

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REPLY COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA) respectfully submits these replies to the comments filed in the above-captioned proceeding.

In the Notice of Proposed Rulemaking (NPRM) and Notice of Inquiry (NOI) released on March 10, 1993[1], the Commission proposed a set of rules to regulate 900 pay-per-call services in accordance with the Telephone Disclosure and Dispute

avoid placing unnecessary burdens on the affected carriers.

I. BLOCKING

A large majority of commenters agree with USTA that, under current network constraints, 900 pay-per-call blocking can only be achieved on a line-by-line basis, and only where a central office switch is equipped to do so. A customer cannot choose to have a particular 900 service blocked and others not blocked.[4]

The local exchange carriers (LECs) asserted that absent massive, wholesale upgrade to their central office switches, selective blocking is technically infeasible at this time. The technology necessary to deploy such functionality is not available in almost every case; and even if it is conceptually possible to deploy in some cases, it may not be compatible with a particular LEC's switch. Also, the LECs have no means to determine whether a 900 call being made is interstate or intrastate.[5] The costs of switch upgrades

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operation of pay-per-call services, as well as billing and collection procedures for such services.

[4] See BellSouth Telecommunications, Inc. (BellSouth) at 6; NYNEX Telephone Companies (NYNEX) at 3; Pacific Bell (Pacific) at 6-7; Sprint Corporation (Sprint) at 15-16; GTE Service Corporation (GTE) at 8; Cincinnati Bell Telephone (CBT) at 4; Southern New England Telephone Company (SNET) at 4; Southwestern Bell Telephone Company (SWBT) at 3; Phone Programs at 8; Information Industry Association (IIA) at 17; USTA at 4-5.

[5] The California Public Utilities Commission (CPUC) argued that although the LEC may not know whether a particular 900 call is interstate or intrastate at the time the call is made, the interexchange carrier (IXC) does, and there is nothing to prevent the IXC from giving this information to the originating LEC. Furthermore, the CPUC argued that, armed with the "technical feasibility" from AT&T's Advanced Multiquest Feature to separate 900 calls jurisdictionally, carriers should now be required to offer jurisdictionally different blocking options to consumers. See CPUC at 4. The CPUC's logic escapes us. Even assuming that Multiquest 900 calls can be jurisdictionally

may well outweigh the perceived benefits to consumers.[6]

The following sample of comments from the LEC industry is instructive:

GTE stated that it can block intrastate intraLATA NXXs for those customers who want to block access to all 900 numbers. However, GTE noted that its current switching methods will not permit an individual end user to select specific 900 NXX codes to be blocked. Any such effort would swiftly exhaust switching resources, and would prove economically and technically infeasible.[7]

CBT offered two possible alternatives to achieve 900 blocking by office code. However, both alternatives would require extensive costs to be incurred by the LEC, and the LEC would have no choice but to pass those costs on to the interexchange carrier or the pay-per-call end user. The first alternative would be to build line class codes into the switch for every 900 number for which a subscriber would not want to have access. This would require an enormous expansion of switch memory to accommodate all of the line class codes. The second alternative would require still-developing intelligent network capabilities. It would then be possible to do a 10-digit lookup, similar to that undertaken with 800 database service. This would require a per query charge. CBT does not anticipate it could begin to consider deploying this technology at least until late

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separated, it does not follow that selective blocking on a per-call basis is technically feasible. Such jurisdictional data is not available across all vendors or IXCs, and the data has not shown to be adequate "real time" data. That a jurisdictional allocation of some calls may be made is not relevant to the operation of blocking at all.

[6] Pacific indicated that as of February 1933, 29.7% of its residential customers have requested blocking. Of these, 97% asked that all pay-for-call calls be blocked. See Pacific at 5-6.

[7] See GTE at 8.

1994.[8]

Pacific argued that blocking of access to interstate pay-per-call services by blocking either certain specific prefixes or specific pay-per-call numbers continues to be neither technically nor economically feasible. Prefixes are used to route interLATA 900 calls to the appropriate interexchange carriers and not to identify the nature of calls.

using different SAC numbers. Uniform access through the 900 SAC will enable customers to differentiate between pay-per-call and other services. Customer recognition is a major factor in avoiding misperception and abuses in pay-per-call services. Absent this arrangement, some information providers will elect to offer programming through other dialing options, if available, motivated perhaps in part by the desire to avoid the 900 pay-per-call rules.

USTA's position is widely supported by the local exchange carriers[11], AT&T[12], the New York State Department of Public Service (NYPSC)[13]; The National Association of Consumer Agency Administrators (NACAA)[14], and the National Association of Attorneys General (NAAG)[15].

In addition, several carriers cautioned that it would not be in the public interest

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[11] See BellSouth at 3; Bell Atlantic at 2; Pacific at 3; SWB at 4; GTE at 4; Sprint at 8-9.

[12] See AT&T at 6-7 and n.9. (Strongly endorses the Commission's plan to consolidate interstate pay-per-call services on the 900 SAC, including services that use the 700 SAC.)

[13] See NYPSC at 2. (Supports limiting interstate pay-per-call services to a specific service access code. Since most interstate pay-per-call services are transmitted via 900 numbers, the most logical approach would be to require that interstate pay-per-call services use the 900 SAC.)

[14] See NACAA at 7. (Consumer are very confused by the plethora of different numbers used by pay-per-call providers. Both interstate and intrastate pay-per-call services should be restricted to using the 900 prefix.) See also Consumer Action at 2. (We strongly support restricting pay-per-call services to specific area codes and number prefixes and that only the 900 area code be used for pay-per-call.)

[15] See NAAG at 4. (While there may be uncertainty over the costs for pay-per-call services—the 900 service access—code would best alert consumers that the cost for

for the Commission to mandate the use of specific service access codes for intrastate pay-per-call services. Currently, some exchange carriers allow various local central office codes (e.g. 976, 540, 550) to be used to provide pay-per-call services offered through their state tariffs.[16] They noted that states are in the best position to determine the numbering system that would be appropriate for intrastate pay-per-call services.[17]

A handful of commenters took a different view. They argued that limiting the pay-per-call service to the 900 SAC would hamper service introduction because it is costly and difficult to obtain the 900 number assignment.[18] One party suggested using the prefix 555 plus a four-digit station number to access interstate pay-per-call service, provided that the service is promoted and advertised under per-per-call rules.[19]

USTA disagrees with these suggestions. The opposing parties have not made any showing that using the 900 SAC is indeed costly and difficult to obtain. In fact, the opposite is true. The process is fairly simple and straightforward. According to Bellcore, as administrator of the North American Numbering Plan (NANP), it assigns the 900 service access code (or NPA)[20] and the three-digit NXX central office code to interstate or intrastate carriers, depending on the jurisdiction involved. The interexchange carriers, and some local exchange carriers, are responsible for the individual four-digit station

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[16] See SWB at 6; Bell Atlantic at 2.

[17] Id. See also NYPSC at 2.

[18] See Phone Programs at 4-5; Pilgrim Telephone at 6-8; IIA at 13.

[19] See The National Association for Information Services (NAIS) at 25-16.

[20] USTA understands that the 900 SAC was originally assigned to the Bell Operating Companies by AT&T prior to divestiture.

code assignment, and the maintenance of number assignment records for their allocated NXX codes.

Procedurally, if a carrier is interested in obtaining a 900 NXX code assignment, it submits a written request to Bellcore, specifying the date each code is to be activated and the anticipated code usage characteristics. It can also indicate a preference for a specific NXX code, or an alternative if that code is not available. Bellcore sends written confirmation of the 900 NXX code allocation within 10 working days after the codes are assigned, usually within 5 to 10 days from the date the request is received. Except for nominal administrative charges, there is no additional "high cost" for assigning these ten-digit numbers. Since each NXX can accommodate a maximum of 10,000 four-digit station numbers, service availability is plentiful.

The Industry Carriers Compatibility Forum, under the auspices of the Exchange Carriers Standards Association, is currently studying the possibility of using the 555 central office code, followed by the four-digit station number. USTA was informed that the study has been complicated by the fact that, as an initial matter, the group must determine which 555 numbers have already been assigned. For instance, the combination 555-1212 has been assigned for use as a national directory assistance number. It is unlikely that a resolution adopting (or rejecting) the 555 as an alternative service access code will be forthcoming in the near future.[21]

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[21] In its June 5, 1992 comments in the CC Docket 92-105 proceeding, Use of N11 Codes and Other Abbreviated Dialing Arrangements, Bellcore indicated that the NANP may be running out of area codes and may have to resort to using certain service access codes for geographic area codes. See Bellcore comments in that proceeding at 6.

In any event, the current 900 numbering plan uses NXX codes to identify the IXC to whose network the call must be routed. USTA agrees with AT&T that absent adoption of a costly 900 database, the same NXX code cannot also be used to identify a specific program category. The Commission should not consider requiring a 900 database access framework without first balancing the costs and benefits of such a proposal.[22]

III. BILLING & COLLECTION AND CUSTOMER RIGHTS DISCLOSURE

A majority of commenters asked the Commission to modify its proposed billing and collection and information disclosure rules. Although they generally support segregating 900 services billing to a separate portion of the monthly telephone bill, the names, addresses and other data concerning the information service provider should not be routinely disclosed on the monthly bills. Rather, the monthly bill should provide either a 1-800 toll free number to access the carrier or service provider, depending on the individual service provision, or a business office number where an IXC or service provider's number can be obtained. The commenters urged the Commission to consider rules similar to those currently being proposed by the Federal Trade Commission (FTC). Indeed, many of the FTC's provisions appear to duplicate the Commission's existing provisions in rule § 64.1509.[23]

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[22] See AT&T at 7.

[23] See GTE at 11-12; Sprint at 17; BellSouth at 8; SNET at 7; SWB at 8; AT&T at 9-10, MCI at 6. The FTC rules would prescribe procedures for resolving consumer billing [illegible]

In a public workship-conference held on April 22 and 23, 1993 in Washington, D.C., affected parties discussed, among other things, the billing and collection and the disclosure issues with the FTC staff, and with each other.[24] The FTC plans to finalize its regulations by July 26, 1993. USTA made the following points to the FTC staff:

o There is no need for the LECs to acknowledge the customer's notice in writing within 30 days or at any time if the dispute can be resolved through crediting the customer's account. The credit is an acceptable written resolution. Just as oral notification of a dispute is sufficient, oral acknowledgement should be sufficient to initiate an investigation even if the dispute cannot be resolved. § 308.7(d). The LECs' present practices have worked well.

o The names and addresses of the providing carrier and vendor should not be added to the regular monthly phone bill. The LEC billing systems have limits on the amount of information that can be included. Rules that demand additional data on bills – data that is almost always known to IXCs but <u>not</u> to LECs – will add enormous costs to LEC operations. In addition, rules that require new safeguards in dispute resolution, and possible rearrangement of business office operations, will also add substantial costs to the LECs, without proper justification.

o The LECs and IXCs should not be the "policemen" of compliance with fraud or sales representation rules.

The Commission should consider the above recommendations to the FTC when it finalizes its own billing and disclosure proposals under § 64.1509 and § 64.1510.

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[24] USTA attended the workshop, in an official capacity, on behalf of its members.

IV. PRESUBSCRIPTION ARRANGEMENT

USTA agrees with several commenting parties that the term "presubscription or comparable arrangement" under the proposed rule § 64.1501 should be clearly defined. As it now stands, the term can easily be interpreted to sweep within its purview a host of "presubscribed" services for which the pay-per-call rules should not apply. USTA agrees with the comment that ordinary telephone credit card transactions should not be subject to pay-per-call rules, although it does involve a "pre-existing arrangement" between the parties and "prior to" the assessment of any charges.[25]

V. COST RECOVERY

USTA has no position at this time regarding the various cost recovery options proposed by the Commission and the commenting parties. While the compliance costs resulting from the Commission's proposed pay-per-call rules may be insignificant, USTA cautions that under some of the FTC's options, the compliance cost may substantially increase. For instance, the FTC is considering new writing requirements for carriers related to customer billing error complaints. Its record retention policy proposals may extend beyond the Commission's current record retention policy in 47 C.F.R. § 42.6. To comply, the carriers' billing and record keeping systems may have to be revamped, even if the records are retained in aggregated form. Smaller LECs will be particularly hard hit.

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[25] See IIA at 3-7; NAIS at 3-4; Prodigy Service Company at 2-4.

V. CONCLUSION

The TDDRA was enacted to protect the public interest and the future development of pay-per-call technology. It mandates that the Commission and the FTC adopt regulations pertaining to the provision of interstate pay-per-call services. While protecting consumers from abusive practices must be the primary goal, the Commission's proposed rules should take into consideration the technical and economic constraints of

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on May 4, copies of the foregoing Reply Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.

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