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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

October 22, 1996

Ms. Regina M. Keeney
Chief Common Carrier Bureau
Federal Communications Commission
Washington, D.C. 20554

Re: CC Docket No. 96-146; and CC Docket No. 93-22

Dear Ms. Keeney:

I represent HFT, Inc., LO/AD Communications Corporation and American International Communications, Inc. I have filed on behalf of those entities, comments and reply comments regarding the FCC's proposed rule making as addressed in the above-referenced docket numbers. I have painstakingly poured over the comments and reply comments of all individuals and entities who have submitted them and would like to share some of my observations with you specifically concerning the proposed redefinition of pay-per-call.

The first and most serious consideration with respect to this proposed redefinition is that not a single brief or comment in support thereof cites any legal authority for the proposed redefinition. In fact, the comments of the Federal Trade Commission clarify without question the unique authority that organization had to redefine pay-per-call. That authority is completely lacking with respect to the FCC. This is illustrated by the complete void in statutory and case law authority authorizing the FCC to engage in such redefinition. Although this may seem like a technical argument to some, to those with any amount of respect for the legislative process, there is a genuine hurdle to proceeding in the matter proposed by the FCC. When Congress has spoken in the form of enacting new legislation, it has gone through a rigorous process of analysis, research and revision which includes, by the very nature of the process, input from the constituents of those elected to represent them. The scrutiny that proposed congressional legislation receives is absent in the rule making process. As evidenced by the comments received in response to these proposed rule changes, only those with particular

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pecuniary interests provide input.[1] Unlike what occurs in the congressional debate process, the individual citizenry is completely unrepresented and, as a practical matter, is not even on notice of the proposed rule making, not to mention its potential impacts. It is therefore of the utmost importance that the FCC strictly abide by its obligation to avoid exceeding its authority by re-legislating where it should only be implementing that legislation that has gone through the congressional debate process after the intense scrutiny that this process provides. We are, or at least should be, a nation with great respect for the law and the legal process, including the process we have designed for enacting those laws. What the FCC is proposing ignores that process and shows a lack of respect for our own system of legislation.

My second observation submitted for your consideration is the fact that aside from the comments submitted by the Alliance for Young Families, which will be addressed separately below, only those entities who are most likely to profit from the 900 dialing pattern are in favor of the proposed redefinition of pay-per-call. Specifically, AT&T, PacBell, 900 Capital and Starlink are, not coincidentally, all in a position to heavily profit from the proposed redefinition. All of these entities are motivated to have as many types of calls dedicated exclusively to 900 use because of the price gouging that is cultivated on this dialing pattern. These entities have no motive whatsoever other than to funnel calls into the most profitable aspects of their business; i.e., their 900 business. In fact, it is unclear whether 900 Capital and Starlink have any business other than 900 business.

Also of significant interest is the fact that although the comments by the Association of Attorneys General expressed its general concerns about high charges for calls and the instant pre-subscription scheme used by some unscrupulous information providers, it was not at all critical of dialing patterns where the only charges to the consumer were those for the regular long distance transmission of the call. As pointed out in my clients' original and reply comments, the consumers are protected from the imposition of unexpected high charges by limiting the charges to the normal and customary long distance rates imposed by the major carriers. In this way, competition, along with the laws imposed by Congress, protect the consumer from unexpected high charges.

Finally, I would like to address the comments offered by that phantom organization, the Alliance for Young Families. After

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[1]The obvious exceptions are the quasi-governmental entities such as California Public Utilities Commission and the Association of Attorneys General.

a thorough search, I have only been able to locate one organization entitled "Alliance for Young Families, Inc." out of Boston, Massachusetts. I have contacted that organization and obtained a list of all six of its employees. Donna J. Sheridan is not one of them. Ms. Sheridan, the apparent author of the Alliance's comments, does not use the "Inc." designation at the end of the heading of that organization leading me to believe that is not the same organization. There is no other nationwide listing for any organization with a similar name and I would urge the FCC to immediately investigate the possible fraud being perpetuated on your organization by having comments submitted by what appears to be a non-existent or illegitimate organization. My clients and I are continuing the investigation of this individual and entity and will provide the commission with an update on our findings as they become available.

I would like to extend my deepest thanks to you for taking the time to address the above. If there is any additional information that I can provide you to assist you in the above regard, please do not hesitate to contact me at the above-referenced number.

Very truly yours,

DICKS & DUNNING LLP

JOSEPH G. DICKS, ESQ.

JGD/cnc