

November 13, 1998

Federal Communications Commission
Washington, D.C. 20554

RE: In the Matter of Truth-in-Billing and Billing Format CC Docket No. 98-170
Public Comments

The Bills Project respectfully submits these comments in response to the Federal Communication Commission's request for comments on the Notice of Proposed Rulemaking regarding truth-in-billing and billing format adopted on September 17, 1998. The Bills Project is a division of the Foundation for Taxpayer and Consumer Rights, a private, non-profit organization located in Santa Monica, California, that represents consumers in a broad range of issues. The Bills Project monitors billing error and fraud throughout the country and across a wide-range of industries. As part of our research we have received a number of complaints regarding errors on telephone bills. Because of the complexity and inscrutability of consumers' bills, many of these errors went unnoticed by consumers for significant periods of time.

General Comments

There is extensive anecdotal and research evidence that consumers are confused by their telephone bills. The 1996 National Regulatory Research Institute study, *Survey and Analysis of the Telecommunications Quality-of-Service Preferences and Experiences of the Customers of Ohio Local Telephone Companies*, found that of the consumers they polled, only 37.9% of business/nonresidential and 52.6% of residential customers gave an "A" (on an A-to-F scale) to their bills for understandability. Significantly, 28.4% of business/nonresidential and 22.6% of residential customers gave a grade of C, D or F to the understandability of their bills. In addition, a 1993 survey of 1,000 telephone customers by the New Networks Institute, a New York market and research analysis firm, found that fewer than 1% of the respondents knew how much they were paying for telecommunications services. The firm also reported that while 9% of respondents stated that they read their bills in full each month, none of them answered questions regarding their charges correctly.

There is also extensive evidence that fraudulent and misleading charges regularly appear on consumer's bills. The FCC reported receiving 20,400 slamming complaints in 1997 and Commissioner Ness has conservatively estimate that the actual number of slamming incidents is 500,000 per year. The Federal Trade Commission reported receiving 6,000 cramming complaints in the ten-month period covering September 1997 to July 1998. The ease of inserting unauthorized third party charges and carrier changes on telephone bills, combined with the inability of consumers to read these bills, clearly creates a wide-open opportunity for fraud.

Consumer complaints to the Bills Project regarding the incomprehensibility of telephone bills mirror those registered with the FCC. Consumers complain that third-

party charges are buried within bills and may go unnoticed for several months, that local and long distance carrier charges are unclear and confusingly itemized, and that taxes and surcharges are bewildering. Consumers also reported difficulties in removing phony charges once they are discovered, particularly in the case of third party charges on telephone bills.

Consumers would clearly benefit from rules that require telephone companies to provide bills with clear formats, descriptions of services, and information regarding the means for contesting charges. Such reforms will serve the twin goals of 1) reducing the number of fraudulent charges that appear on consumer bills and making it easier for consumers to contest charges that do appear; and 2) creating a more competitive marketplace. As consumers obtain a greater understanding of the charges that appear on their bills, they will be in a better position to gauge offers made by competing firms vying for their business. The situation is analogous to that of credit card customers comparing competing card issuers. The Truth in Lending Act and Regulation Z (although less than perfect), have resulted in clearer disclosure of charges on consumers' credit card bills, allowing these consumers to shop for better terms from competing providers. Proper disclosures on telephone bills could serve the same function for telecommunications customers, and is particularly vital if impending local competition is to be successful.

Bill Organization

The current organization and formatting of telephone bills often discourages consumer examination of services and charges. For example, Bell Atlantic issues bills that are printed on multiple pieces of small paper. Consumers are forced to hunt through the pieces of paper to discover the various services and charges. Third-party charges may be buried far in the back of the bill. In addition, the only information provided on the first page, the payment stub, is the total amount due. The structure of the bill works to obscure charges and encourages customers to simply pay the total due, without analyzing the content of the bill for correctness.

Several consumers who complained to the Bills Project about unauthorized charges stated that the confusing order of their bills helped to obscure these charges. Consumers are unlikely to detect the existence of third-party charges if they are buried deep within a bill, particularly when the charges are only several dollars per month. One consumer complained that she did not detect a recurring \$6.99 monthly charge for three months, as well as an initial \$2.99 "set-up" charge. The charges were the result of cramming, and because the customer had already paid for three month's worth of charges, the billing aggregator would only remove the most recent month's worth of charges. The aggregator informed the consumer she would have to write directly to the service provider to recover the prior months' charges.

Consumers' ability to detect unauthorized and questionable charges would be benefited by logically structured and clearly formatted bills. Each section of the bill should be clearly and properly labeled. Items listed on bills and their attendant charges

should be disclosed in easy to read columns. Related charges should be grouped together into blocks of information that can be quickly grasped. Some consumers have noted that on their current bills, items appear randomly spread across the page, and the charges associated with these items are tallied in both left and right hand columns, making it very difficult to verify charges.

Bills should also be organized so that even the most harried and inattentive consumer will have the opportunity to detect questionable charges and services. For the least attentive consumer, who merely reviews the total amount due each month, new charges and services should be clearly disclosed adjacent to this total amount due at the top of the bill. The disclosures could be provided in a "New Services and Charges" box, since a box will attract the bill payer's attention. Any new service provided (e.g., "long distance," "calling card") and the name of the company providing it should be listed within the box. Since many consumers will only engage in a cursory review of their bill each month, the presence of a box that clearly highlights any changes in the customer's account, positioned near the total amount due, will provide even the least observant consumer with adequate notice of any changes in their bill from the prior month. Certainly, such a box would assist consumers in spotting slamming and cramming charges.

Consumers would also benefit from a summary section near the beginning of their bills. The summary should list the following: 1) all the carriers or other companies that appear in the bill; 2) the services these companies are billing for; and 3) the total charges assessed by each company. For example, a listing of "MCI Long Distance -- MCI 5¢ Sundays -- Total Charge \$20.00" would be preferable to merely listing MCI as the carrier and the total charge associated with MCI services. With the fuller listing, customers who only engage in a cursory review of their bills can determine whether they are on the correct plan with the correct carrier. Similarly, third-party charges from service providers should list the name of the provider, the name of the service, and the total charge in the summary section, allowing for quick verification.

Several consumers who complained to the Bills Project might have been aided by the presence of a comprehensive summary section on their bills. Consumers have complained to us that they have been assigned to the correct carrier, but the wrong rate plan. These consumers responded to marketing promotions for low rates, but later discovered (sometimes after several months) that they were on the carrier's basic rate plan (or another more expensive plan). For domestic long distance service, the resulting overcharge can be several cents per minute; for international calls, it can be considerably greater. Consumers have also reported that they signed up with a carrier, but for some reason, are not subscribed to that carrier. Nonetheless, this carrier continues to bill them, but at casual rates. Some customers did not detect the casual rates quickly, primarily because the carrier's name is still listed on the bill, as if the consumer were subscribed. Similarly, consumers may not detect that they have been slammed to a reseller who purchases lines from their chosen carrier. These customers would be assisted if the summary section of their bills stated the carrier (or reseller), the plan, and the charges associated with the plan. For example, "LD Company Long Distance -- Unsubscribed,

Casual Rates (40¢/min. and \$2.45 surcharge per call) -- Total Charge \$150,”¹ or “LD Company -- basic service (20¢ per minute) -- Total Charge \$50.” (The description of the long distance service should also be repeated in the section itemizing long distance charges). Since summary sections already exist on many bills, simply adding clarifying detail will not create any hardship for the bill issuers.

Full and Non-Misleading Descriptions

Consumers have complained to the Bills Project about unclear third party charges, unclear charges from local and long distance carriers, and various inscrutable taxes and surcharges on their bills. Consumers complain that third party charges are listed simply as “monthly fee,” “information services calls,” or “teleconferencing.” Often, these labels do not indicate the true nature of the charge. For example, 700 number calls, listed as “teleconferencing,” may in fact be adult services or psychic lines. It is possible that these 700 providers are seeking to evade the protections of the 900 number rule. In addition, the name of the service provider may not be present and consumers may be provided the name and number of an aggregator who may not be willing to resolve billing questions. Local phone company charges may also be unclear to consumers. For example, local toll calls may be billed as “message units.” The charge for an in-home wiring insurance policy on a Bell Atlantic bill is listed as “service not regulated by Public Service Commission” -- no mention is made of the actual nature of the charge. In addition, consumers have also complained to us that recent assessments of access charges on long distance bills are unclear (consumers fail to understand why this new line item has suddenly appeared on their bill).

Carriers and service providers should be required to label charges so that they are clear and not misleading. Currently, bills often contain charges for services that are needlessly vague (e.g. “monthly charge” or “surcharge” with no explanation) or deliberately misleading (e.g. “on-line consulting” for calls that turn out to be “psychic lines,” or “virtual chat lines”). There is no legitimate business reason for this practice. It is in the consumer’s interest that companies be required to list all charges as accurately as possible. If a service is advertised as “psychic hotline” it should appear on the bill in this form. Such a requirement will not cause service providers to incur any additional costs. In addition, the date and method of consumer authorization of a new charge or service, as well as the name of the consumer who authorized the charge, should appear with the itemization of attendant charges the first time a new service appears (e.g. “AT&T basic rate long distance, per telephone authorization of Fred Doe, Aug. 12, 1998”). Consumers who have been crammed or slammed, and who have called the company responsible have often received vague information when these customers demand to know who authorized the charges. Listing the authorization information on the bill would assist consumers in contesting illegitimate charges. It would also provide concrete evidence of misrepresentation when firms deliberately place fraudulent charges

¹ The FCC’s recent decision ordering MCI to stop charging exorbitant casual rates is an important step in preventing this particular overcharge. Even so, customers who are accidentally unsubscribed from MCI may end up paying basic rates for phone calls, when they should be paying a discounted rate. The effect on casual rates assessed by AT&T and Sprint remains to be seen.

on bills. This evidence could assist regulators in any investigation or proceeding against these firms. Finally, requiring that firms print the authorization information would inhibit cramming and slamming since companies that currently impose such charges will be unable to conform to the requirement.

Long distance customers would be assisted by more detailed itemization of their calls. Specifically, these customers would benefit from knowing the per-minute rate of calls they make. Currently, consumers are provided only with the length of the call in minutes and the charge for the call, but are not provided with the rate (e.g. @10¢ per minute) for each call. Consumers must divide the charge for the call by its duration to assure that they are on the proper rate plan, and that all the charges they receive actually conform to the terms of the rate plan. By contrast, electric and gas consumers are told the cost per KW or therm on their bills, the same should be true for telephone consumers.

Local carriers must use simple and clear terms for the services they provide. Currently there are a welter of terms provided for services that are fairly standard, and carriers change these terms from time to time (not always resulting in greater clarity). In addition, definitions for these terms may not be provided. Even worse, carriers may not clearly break down the monthly charges on customer bills to highlight the services that are provided. Under the current system, consumers may have no idea what services correspond to the charges listed on their bills, and may not know if they actually ordered these services, or if they were in fact ordered, whether they are services the consumer wishes to retain. With approaching competition, consumers will particularly need to understand the local service charges on their bills so that they may compare the costs for these services with those of competing carriers. Carriers should either be required to use standardized language for services (e.g. all companies would use either "Return Call," or "*69"), or provide clear and non-misleading definitions for whatever titles that they use for services, or both.

In general, consumers are confused by the various taxes, surcharges and other charges that appear on their bills. Most of these charges are labeled in code, or in terms that are unfamiliar to consumers. Consumers who call their carrier for an explanation may remain confused about the purpose of these charges. In particular, the subscriber line charge on local bills is often misleadingly disclosed. For example on a Washington DC Bell Atlantic Bill, the charge is labeled "Federally Ordered Subscriber Line Charge," which may give consumers the impression that this is a federal tax or surcharge, when in fact, the money goes to Bell Atlantic. Consumers should know that subscriber line charges are intended to cover their local companies' loop costs, and such information could be easily and cheaply disclosed. Similarly, consumers would be benefited by a one-line description of all other taxes and surcharges that appear on their bills.

Current labeling of access charges on long distance bills is also inadequate and misleading. Unfortunately, various companies label these charges differently and charge varying amounts, without disclosing the fact that it is the company that chooses to assess the charge on consumers and determines the amount to assess (which may be greater than the amount actually incurred by the company). Current labels for access charges, such as

“LD Line Charge,” and “National Access Fee,” do little to inform consumers of the nature of these charges. A label such as “Carrier Access Charge of \$.53 Passed Onto Consumer -- \$1.07” would be more honest and accurate. In addition, consumers should be able to understand the changes in access charges and how they should be affected. Such disclosures could be provided through a description on consumer bills or consumers could be directed to the FCC to obtain such information.

If companies are to provide a description of access charges on their customers’ bills, such disclosures should make consumers aware that access charges are imposed on long distance companies on a per line basis and that these companies have chosen to pass these costs onto consumers. Furthermore, consumers should be informed of the maximum charges that are assessed on long distance carriers for primary and secondary residential lines, and single and multiple-line business phones. Finally, consumers should also be aware that per-minute access charges on long distance carriers are declining and that the rates charged to consumers should be similarly declining. A clear and non-misleading description of access charges that will not cause further confusion amongst consumers will be inherently lengthy.

Alternatively, consumers could be instructed on their bills to contact the FCC or access its website regarding access charges in order to obtain general information and have their questions answered. If consumers contact their long distance carrier regarding access charges, the response provided by customer service representatives at these carriers should be clear and non-misleading, as discussed in the preceding paragraph.

In those cases where carriers assess surcharges on customers that are in excess of those access charges the carrier actually incurred, or when carriers do not lower their rates in accord with decreasing per-minute access charges, the FCC should become directly involved in challenging these practices. FCC Chairman Bill Kennard’s February 1998 letters to AT&T, Sprint and MCI querying whether reductions in access costs were passed onto consumers through lower rates, and querying their disclosures, marks the beginning of this necessary supervision. Competition alone is unlikely to reduce the charges that carriers assess on their customers to recover access charges. Consumers are not likely to switch carriers to obtain a lower charge -- compared to the savings obtained through a lower rate, consumers are not going to view obtaining a lower access charge fee as an important component in their decision to select a particular long distance carrier (particularly since changing carriers involves a \$5.00 switching fee from the local carrier). Even with full disclosures, carriers that assess high charges on customers are likely to continue to reap significant profits from this practice unless the FCC takes action.

Consumer Inquiry/Complaint

As suggested by the National Consumers League, bills should list the name, toll-free telephone number and address of the actual carrier, service provider or reseller associated with services on their bills. Consumers should not have to make several calls in order to find the appropriate entity when querying charges. Consumers should be

able to reach the corporation responsible for the disputed charges during normal business hours and speak to a live human within a reasonable period of time. When consumers contact customer service representatives at carriers regarding disputed charges they must be provided with accurate information. Consumers have told the Bills Project that they received inaccurate or incomplete information regarding cramming and casual rate charges from local carriers. Carriers should be required to provide trainings for all new staff and update all staff regularly to insure that proper assistance is provided. The FCC should take action against carriers that provide incorrect or misleading information to consumers.

Consumers are also deterred from challenging goods and services on their bills by the fear of termination of service, whether real or perceived. As Alan Taylor, of the Florida PSC commented at the FCC's "Public Forum on Local Exchange Billing for Other Businesses," consumers are faced with a "largely unregulated industry trading on the perception that if you don't pay your phone bill, you'll get cut off." Consumers have reported to the Bills Project that they were threatened with the loss of local or long distance phone service when contesting charges -- some consumers had their local service terminated.

As suggested by the FCC, consumers would be benefited by clear disclosures regarding which charges are "deniable," and which are "non-deniable." Disclosures regarding which charges, if unpaid, may or may not result in termination should be provided as headers to sections listing these charges. Currently, deniability/non-deniability information may be located on a page or section separate from the actual charges, and consumers who do not read their entire bill carefully, may fail to realize that they are not in danger of termination for contesting a particular charge.

It is also problematic that consumers are threatened with the termination of phone service when they contest invalid charges that are tariffed. For example, several consumers complained that they were threatened with the loss of their local phone service when they contested invalid casual charges that were assessed by a long distance carrier, and one consumer had her local service temporarily disconnected. Several consumers reported that their local phone company offered to partially re-rate these casual calls, offering these consumers only a portion of what they were actually owed. Consumers should not be placed in the position of having to pay all or part of a mistaken charge, under the threat of losing their phone service, simply because the charge is tariffed.

Telephone consumers should have error correction rights in relation to their bills analogous to those enjoyed by credit card consumers under the FCBA, and telephone consumers contesting 900 number calls. Consumers should be able to contact the carrier that issued their bill in order to contest any charges that appear on the bill. The carrier should investigate the charge and remove it if it is unauthorized and re-rate it if it is an overcharge. Currently, consumers do not even experience adequate billing error resolution proceedings regarding charges that were assessed by the carrier itself. For example, consumers that question message unit charges and local call charges on their

bills are told that these charges cannot be verified, yet must be paid. Consumers should not be expected to pay for unverifiable charges. Nor should consumers have to fight with a service provider over an erroneous charge that appears on their bill -- the phone company that billed the charge to the consumer should intervene on the consumer's behalf. While such error resolution rights are not specifically related to billing clarity, they are integral to ensuring that consumers only pay appropriate charges. If revised billing formats enable consumers to identify potentially inappropriate charges, but then customers are unable to have the charges investigated properly, consumers will not be truly benefited by billing reforms.

Costs to Carriers

Clear organization of bills and descriptions of charges are not intrinsically costly. Companies already provide itemizations of charges. Simply requiring that items in these sections be listed more clearly should not add any significant additional costs. With clearer bills, corporations will actually save money on customer service costs because consumer confusion will decline and customers will have fewer inquiries that stem from misunderstandings and incomprehension. When local competition commences in earnest, those companies that issue the clearest bills will benefit from customer retention and will attract new customers. In the long run, the economic benefits of clear billing will outweigh the costs.

Respectfully submitted,

Todd Larsen, Director
Bills Project