

ORIGINAL

PIPER & MARBURY

L.L.P.

1200 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036-2430

WRITER'S DIRECT NUMBER
(202) 861-6475
FAX: (202) 223-2085

202-861-3900
FAX: 202-223-2085

BALTIMORE
NEW YORK
PHILADELPHIA
EASTON

RECEIVED

November 13, 1998

NOV 13 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: **In the Matter of Truth-in-Billing and Billing Format,
Notice of Proposed Rulemaking, CC Docket 98-170**

Dear Ms. Salas:

On behalf of USP&C, Inc. there is transmitted herewith an original and four copies of its Comments in the above-referenced proceeding.

A confirmation copy of this filing is also enclosed. Please date-stamp the confirmation copy and return it to the courier delivering this package.

If there are any questions regarding this filing, please contact the undersigned counsel.

Sincerely,



J. Todd Metcalf

Enclosures

No. of Copies rec'd
List A B C D E

0+2

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

NOV 13 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Truth-in-Billing)
and)
Billing Format)

CC Docket No. 98-170

COMMENTS OF USP&C, INC.

Randall B. Lowe
J. Todd Metcalf
PIPER & MARBURY L.L.P.
1200 Nineteenth Street, NW
Suite 700
Washington, DC 20036
(202) 861-3900

Dated: November 13, 1998

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of
Truth-in-Billing
and
Billing Format

)
)
)
)
)
)

CC Docket No. 98-170

COMMENTS OF USP&C, INC.

USP&C, Inc. (“USP&C”), by and through its attorneys, hereby submits its comments on the Commission’s Notice of Proposed Rulemaking (“*NPRM*”) in the above-referenced proceeding concerning truth-in-billing and billing format.¹

I. INTRODUCTION

The Commission’s *NPRM* is issued in response to a rising tide of consumer complaints relating to the billing practices of telephone companies.² Most of these complaints appear— at least anecdotally—to derive from the failure of telephone bills to provide consumers “necessary information in a clear and conspicuous manner, so as to allow the consumer to understand readily the precise nature of charges appearing on these bills.”³ In addition, the Commission and the Federal Trade Commission along with Congress and consumer protection groups have witnessed

¹ *In the Matter of Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, CC Docket No. 98-170 (released September 17, 1998) (“*NPRM*”).

² *NPRM* at ¶2.

the dramatic escalation of the practice of “cramming,” which is the practice of causing unauthorized, misleading or deceptive charges to be placed on consumer telephone bills.⁴ Accordingly, the Commission seeks comment on the regulatory regime it should adopt to ensure that consumers are protected against fraudulent and confusing telephone bills.

USP&C is one of the country’s leading billing aggregators—the most common conduit through which service providers invoice consumers for their services on the consumers’ telephone bills. USP&C believes that access to the platform of the monthly telephone bill by competing providers is essential to fully realizing the pro-competitive goals of the 1996 Act. At the same time, however, USP&C recognizes and acknowledges that there have emerged service providers who would take advantage of what has become a complex and confusing billing device to defraud consumers. USP&C, in addition, has revamped significantly and continues to evaluate and improve the processes by which it reviews the products and services the providers on whose behalf it bills to safeguard consumers against cramming. Finally, USP&C has joined with most of the nation’s leading billing aggregators in adopting a set of guidelines to further ensure that its processes are sufficient to protect consumers from unauthorized, deceptive and ambiguous charges on their telephone bills.⁵

(footnote continued from previous page)

³ *Id.*

⁴ *FCC and Industry Announce Best Practices Guidelines to Protect Consumers from Cramming*, FCC Press Release (July 22, 1998).

⁵ *Anti-Cramming Consumer Protection Standards of Practice of the Coalition to Ensure Responsible Billing* (released September 10, 1998).

USP&C agrees with the Commission that steps must be taken to regulate the billing and collection process to require “clear billing that customers can easily read and understand.”⁶ Moreover, while USP&C believes that the telephone billing platform is an essential path to a truly competitive telecommunications marketplace, it advocates regulation of the billing platform to ensure access by competing providers. Without access to this vehicle, competing telecommunications service providers are often placed at a significant competitive disadvantage vis-à-vis the incumbent providers. USP&C accordingly encourages the Commission to promulgate a regulatory regime that fosters competition while protecting consumers against fraud. Without such a regime, the competitive marketplace envisioned by the 1996 Act cannot be realized.

To that end, USP&C wishes to make three recommendations. First, the telephone should include a service status summary (*i.e.* who provides what) as well as a notice to the consumer of changes in service from the previous month’s bill. Second, the telephone bill should be structured such that while a consumer is clearly aware who provides the service, inquiries and complaints about the bill should be directed to the local exchange carrier or the billing aggregator as applicable. Finally, the bill should clearly differentiate between deniable and non-deniable charges.

II. STATUS SUMMARY

Without doubt, considerable progress could be made toward reducing the incidence of fraud on consumer telephone bills if those bills were made easier to read and understand. Accordingly, USP&C supports the Commission’s suggestion that each telephone bill contain a brief, clear and

⁶

National Association of Regulatory Utilities Commission, White Paper on Resolution Urging Support of Principles Promoting Consumer Awareness and Protection by Policy Makers Involved with Telecommunications Regulation 1 (1998).

conspicuous summary of services, changes in service, and new charges.⁷ This status summary should clearly detail who provides what to the consumer. It should set forth for the consumer in clear, plain language (1) the consumer's presubscribed interstate toll carrier, (2) the consumer presubscribed intrastate toll carrier, (3) the consumer's presubscribed local exchange carrier, (4) any other service providers, including those providing telecommunications and non-telecommunications related services, for whom charges are being billed, and (5) whether carrier or preferred carrier freezes or other blocking mechanisms are in place.⁸

In addition, USP&C agrees with the Commission that telephone bills should also provide consumers with clear and conspicuous notice of any changes in service or new charges on their telephone bills.⁹ This notice should in clear, plain language provide the consumer with information regarding (1) changes in presubscribed carriers, (2) any new service providers for whom charges are being billed for the first time or whose charges did not appear on the last telephone bill, (3) changes in any carrier or preferred carrier freeze status or blocking mechanism status, and (4) explanations of any new types of line item charges appearing on the bill for the first time.¹⁰

USP&C, however, emphasizes that these explanations and disclosures must be clear and conspicuous to the consumer in order to have any effect. Moreover, USP&C believes that these explanations and disclosures must be in plain language that consumers can understand. One of the fundamental problems with telephone bills today is that the terminology is comprehensible only to

⁷ *NPRM* at ¶¶18-19.

⁸ *Id.* at ¶18.

⁹ *Id.* at ¶19.

those who are well-versed in telecommunications regulatory matters, and undoubtedly certain items elude even their understanding. It is this incomprehensible nature that enables unscrupulous service providers to disguise charges and evade detection by consumers. Any regulatory regime that is to combat cramming effectively must ensure that the line items appearing on a consumer's telephone bill are understandable to that consumer.

USP&C agrees with the Commission's suggestion that consumers should be provided with full and non-misleading descriptions of all charges that appear on their telephone bills. Also in clear, plain language, these descriptions should indicate the service provided as well as the service provider. In the case of governmentally mandated charges, the descriptions should enlighten the consumer as to the nature and source of the charge, again in a non-misleading manner. USP&C further advocates that the names of service providers appearing on telephone bills should match the names indicated in any such providers' marketing materials. In sum, by reviewing his or her telephone bill, the consumer should be able to ascertain easily who provided what, who charged what, and why.

III. DIRECTION OF INQUIRIES

USP&C agrees with the Commission's suggestion that the names of service providers should be included on a consumer's telephone bill in addition to that of the billing aggregator. However, USP&C urges the Commission to require that inquiries and complaints about charges be directed to the billing aggregator rather than the service provider. First, as a general matter, billing aggregators are far better suited and equipped to handle effective consumer inquiries and complaints.

(footnote continued from previous page)

¹⁰

Id.

Accordingly, billing aggregators benefit from economies of scale in this respect that most service providers cannot achieve. Second, requiring the direction of inquiries and complaints to the billing aggregator better enables the billing aggregator to police its own business. As such, billing aggregators are able to thwart unscrupulous service providers sooner and more quickly. Third and finally, giving consumers a single point of contact to which to direct their inquiries and complaints minimizes the confusion that fosters fraud. By requiring that inquiries be directed solely at billing aggregators with respect to service providers on whose behalf they bill, the Commission creates an environment protective of consumers insofar as it ensures better customer service, increases policing efforts against *cramming* and related forms of fraud, and reduces confusion among consumers.

IV. DIFFERENTIATION OF DENIABLE AND NON-DENIABLE CHARGES

USP&C agrees with the Commission's suggestion that telephone bills should differentiate clearly between deniable (*i.e.* those charges nonpayment of which can result in denial of telephone service) and non-deniable (*i.e.* those charges nonpayment of which will not result in discontinuation of telephone service) charges. USP&C, however, urges the Commission to recognize that safeguards will be required to protect against what one might characterize as "reverse fraud" by the consumer against the service provider. By that, we mean that steps must be taken to ensure that consumers will not be allowed, if you will, to get a refund on their admission price because they did not like a movie they already saw. Many of us make choices as consumers that we later regret, but, in most instances, we learn from our mistakes and adjust our subsequent behavior accordingly. Without appropriate safeguards in place, drawing a bright line between deniable and non-deniable charges may encourage consumers not to pay for lawful services they both subscribed to and used. In other words, any regulatory scheme adopted should make clear that consumers disputing a non-deniable charge may not have their service interrupted for such a dispute but should also be required

to demonstrate that no "authorized person" in fact incurred the disputed charge. Upon such a demonstration, a disputed charge should of course be immediately removed from the consumer's telephone bill.

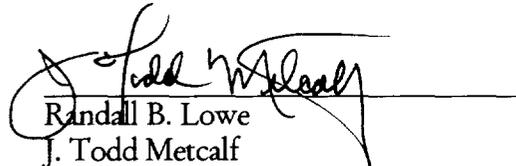
V. CONCLUSION

The telephone billing platform is an essential path to realizing the competitive telecommunications marketplace envisioned by the 1996 Act. It must be made available to service providers offering competing services on reasonable terms and conditions. At the same time, however, consumers are entitled to user-friendly telephone bills that protect against fraud and minimize confusion. Accordingly, USP&C urges the Commission to take only such regulatory steps as are necessary to foster competition, to allow consumers maximum choice in available telecommunications services, and to prevent fraud.

Respectfully submitted,

USP&C, INC.

By:



Randall B. Lowe
J. Todd Metcalf
PIPER & MARBURY L.L.P.
1200 Nineteenth Street, NW
Washington, DC 20036
(202) 861-3900

Its Attorneys

Dated: November 13, 1998