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STATE OF NEW YORK

EXECUTIVE DEPARTMENT
STATE CONSUMER PROTECTION BOARD

Timothy S. Carey
Chairman and Executive Director

George E. Pataki
Governor

Ann Kutter
Deputy Executive Director

March 17, 1999

Overnight Delivery
Commission's Secretary
Ms. Magalie Roman Sales
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W. TWA-325
Washington, D.C. 20554

Re: CC Docket No. 94-129

Dear Secretary Sales:

Enclosed are an original and four copies of the Petition for Reconsideration and Comments of the New York State Consumer Protection Board in Docket No. 94-129. Since the document consists of both a petition for reconsideration (Pages 1-7, including summary) and comments (Pages 7-26), we have complied with both the filing procedures and page lengths for a petition and comments.

Accordingly,

(1) an original and fourteen copies for a petition for reconsideration have been filed at TWA-204;
(2) two additional copies for reconsideration have been forwarded to the Common Carrier Bureau;
(3) an original and four copies are enclosed herein pursuant to the comment procedures;

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(4) a "read only" diskette has been submitted to Kimberly Parker of the Common Carrier Bureau pursuant to comment procedures; and

(5) a copy of the diskette has been forwarded to the Commission's copy contractor pursuant to comment procedures.

Yours truly,

Anne F. Curtin

Anne F. Curtin
Intervenor Attorney

cc: Commission's Secretary, TWA-204
Kimberly Parker
Commission's copy contractor

FEDERAL COMMUNICATIONS COMMISSION

In The Matter Of	
Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996	CC Docket No. 94-129
Polices and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers	

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Michael P. Sasso, Esq.
Director, Utility Intervention

Anne F. Curtin, Esq.
Utility Intervenor Attorney

ORIGINAL

Dated: March 18, 1999
Albany, New York

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PETITION FOR RECONSIDERATION
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CONSUMER PROTECTION BOARD

SUMMARY

Despite increased state and federal enforcement, including over $16 million in federal sanctions since 1994, slamming[1] remains a pervasive problem. In the Second Report and Order and Further Notice of Proposed Rulemaking (NPRM)[2], the Federal Communications Commission (FCC, Commission) sought to take the "profit out of slamming" (NPRM, at 4) by:

(1) establish[ing] a new comprehensive

1 Slamming is the term commonly used to describe an unauthorized switch of a consumer's service provider.

2 Unless otherwise indicated, citations herein are to paragraphs of the NPRM in this proceeding, adopted December 17, 1998.

framework to combat aggressively and deter slamming in the future;

(2) clos[ing] loopholes used by carriers to slam consumers and

(3) bolster[ing] certain aspects of the rules to increase their deterrent effect. (Id.)

The New York State Consumer Protection Board (NYSCPB) - New York's chief consumer advocate, representing the interests of all New York consumers, especially residential consumers, small businesses and farms, commends the FCC.[3] In our view, the Commission's rules, adopted and proposed, are welcome steps toward the elimination of slamming.

While the FCC has taken much needed action, we differ, however, with the Commission over its 30 day from the charge grace period for slammed consumers. (NPRM, at 18; Point I) Thirty days from the charge is simply not enough. Consumers are blind to slamming until a bill arrives which may be over 30 days from when the slamming occurred. For this and other reasons, we recommend

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3 The NYSCPB is a state agency. The NYSCPB Chairman and Executive Director is also State Director of Consumer Protection. New York Executive Order, No. 45, issued November 13, 1996. The mission of the NYSCPB is to represent all consumers in this challenging and ever changing economy by aggressively investigating and responding to consumer complaints, pro-actively educating and advocating on behalf of consumers, researching and analyzing consumer issues, and working in tandem with the business community to resolve consumer problems. The NYSCPB is often the sole advocate on behalf of New York's residential, small business and farm customers on telecommunications issues before the New York Public Service Commission (NYSPSC), and has participated in many FCC proceedings.

a 30 day grace period from when the bill is issued. This provides a realistic time frame for slamming detection. We also ask that the FCC lengthen the absolution period temporarily to 60 days from bill issuance until its reforms as to "soft" slams[4] and the Truth in Billing Notice (Docket No. 98-170) are implemented. This provides consumers some leeway to decipher bills while the FCC establishes remedies for these matters.

In Point II, we second the FCC's proposal to ensure that consumers receive full refunds by doubling the slamming carrier's liability. We object, however, to the FCC's proposal to return any charges beyond the grace period to the authorized carrier. We recommend instead that the Commission order the authorized carrier to retain the charges it would have billed and the remainder be remitted to the consumer.

In Point III, we support the FCC's proposal to identify the "soft" slammer, and recommend that resellers obtain reseller-specific carrier identification codes (CICs), thereby placing the cost burden on the cost causer. In Point IV, we also comment on the Commission's proposals as to independent verification. We suggest that the independent third party verification is not

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4 A "soft" slam occurs when a switchless reseller changes a customer's authorized carrier. Because switchless resellers use another carrier's identification code (CIC), the authorized

compromised when the new carrier connects the verifier and subscriber if the new carrier immediately exits the call. We also favor standardized verifier content and format to settle any questions as that method of verification. We recommend, however, that the Commission retain its stand against verifiers dispensing additional information, which would not be standardized and which could be subject to marketing bias.

The Commission also requested comments on using the Internet for carrier change request verification and freezes. (NPRM, at 169-175) We endorse the Commission's conclusion that a typed signature is not a valid signature for verification purposes. (Point V) We reject the use of credit card numbers as verifiers because of the relative ease with which they may be intercepted. We offer instead that secure transmission encrypted sites based upon five of seven credible identity verifiers would be beneficial to both the industry and the individual. We also support the use of similar methods for carrier change request verification and freeze changes.

In Point VI, we define subscriber as the billing individual(s) unless the industry can demonstrate that inter-household disputes are not a major cause of slamming. We also support the Commission's proposals to register carriers and create a first

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carrier and the customer are blind to the change.

alert system by requiring carriers to report regularly on the number of slamming complaints. (Points VIII and VII)

I. A CONSUMER GRACE PERIOD OF THIRTY DAYS AFTER THE CHARGE IS INSUFFICIENT.

In the NPRM, the FCC found that a consumer grace period would compensate consumers for the personal intrusion of having their choices denied and the imposition of having to remedy the slam. (NPRM, at 26) The Commission also balanced the possibility that some consumers might unfairly report being slammed. (NPRM, at 23) As a result, the Commission established a consumer grace period of 30 days from the charge. (NPRM, at 18)

As explained below, the NYSCPB proposes two further refinements. First, the consumer grace period should be measured from the date the bill is issued. Second, during the transition while the FCC's reforms as to "soft" slams and billing are implemented, the consumer grace period should be 60 days from the billing date.

A grace period that is measured from when the charge occurs is meaningless to the consumer. Consumers are blind to slamming until a bill is issued. If the first slammed call were made in the first week of a monthly billing period, the consumer would not receive a bill until the second week of the next month.

Already the consumer from no fault of his/her own would be liable for calls in the next month. Moreover, consumers may not examine the bill until it is due -- another ten days -- further adding to consumer liability for illegal charges. This is clearly inconsistent with the 1996 Telecommunications Act legislative intent that the consumer be made whole. (See, Joint Statement of Managers, S. Conference Report No. 104-230, 104th Congress, 2d Session, Preamble (1996), at 136; NPRM, at 38)

The NYSCPB recommends that the 30 day grace period apply from when the bill with slammed charges is issued. This ensures that no consumer will be liable for charges before he/she could possibly detect them, and sets a realistic time period for that detection.

We caution, however, that while the FCC has taken much needed action, some aspects of the Commission's decisions should be implemented as a package to ensure fairness to consumers. Until the Commission eliminates "soft" slams, which we urge it to do, and clarifies bill format and requirements, which it has proposed to do in its Truth-In-Billing docket,[5] victims of "soft" slams, who examine their bills, may not detect any problems. Moreover, as the Commission stated:

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5 The NYSCPB has filed comments in the Truth-In-Billing proceeding.

> The difficulty experienced by consumers in understanding their telephone bills is not simply an inconvenience. Rather, consumers must have adequate information about the services they are receiving, and the alternatives to them, if they are to reap the benefits of a competitive market. (Docket No. 98-170,NPRM, at 3)

In order not to penalize consumers when certain types of slamming may be undetectable, we recommend that the FCC extend the grace period to 60 days after the billing date until the appropriate proceedings are completed and remedies implemented.

II. CONSUMERS SHOULD RECEIVE COMPLETE REFUNDS.

Recognizing the pervasiveness of the slamming problem, and based upon a statutory dichotomy, the FCC ordered that when a consumer has paid illegal slamming charges, the slamming carrier must return those charges to the authorized carrier. (NPRM, at 38, 140) The slamming victim, however, would receive only money paid in excess of the authorized carrier's rate.[6]

The Commission recognized the "tension" created between completely compensating authorized carriers and not consumers. (NPRM, at 140) Therefore, it further proposed that slamming

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6 The FCC also provided that if a consumer has not paid the illegal charges, the consumer is absolved from liability for the grace period. (NPRM, at 41) A subscriber would pay any charges beyond the grace period at the authorized rates.

carriers be required to double the bill paid by the customer so that both the consumer and the authorized carrier were made whole for the grace period. (NPRM, at 141) If the customer had paid illegal charges beyond the grace period, the authorized carrier would be entitled to collect and keep that entire amount. (Id.)

A. Doubling the Slamming Carrier's Liability

The FCC's original ruling kept the authorized carrier whole while requiring the customer through charges paid the slamming carrier to reimburse the authorized carrier for services never rendered. While authorized carriers were not penalized under this solution, customers were -- a solution without parallel in any other industry.

The NYSCPB wholeheartedly supports the Commission's proposal to double the slamming carrier's liability. Section 258(b) of the Telecommunications Act of 1996 addresses the liability of slamming carriers to authorized carriers, but is silent as to either the liability of consumers who have been slammed or the liability of carriers to consumers who are victims of slamming. (47 U.S.C. Section 258) It is clear, however, from the legislative history of Section 258(b) that Congress intended that the FCC adopt rules to ensure that the victims of slamming were not permanently harmed:

> The conferees adopt the House provision as a new section 258 of the Communications Act. It is the understanding of the conferees that in

> addition to requiring that the carrier violating the Commission's procedures must reimburse the original carrier for foregone revenues, the Commission's rules should also provide that consumers are made whole.
>
> (Joint Statement of Managers, S. Conference Report No. 104-230, 104th Congress, 2d Session, Preamble (1996), at 136; NPRM, at 38)

Sections 4(i) and 201(b) of the Act authorize the Commission to issue rules and regulations in the public interest and necessary for the implementation of the Act. Further, doubling the amount paid by the slamming carrier would serve two other, though no less important, purposes. It would increase the economic disincentive against slamming and increase the incentive for authorized carriers to pursue repayment.

We caution, however, that without clear billing information and CIC codes for all providers, even this proposal may be a well-intentioned, empty remedy because consumers cannot easily identify slamming on their bills. As we explain infra, it is unreasonable to ask consumers to scrutinize phone bills that even with scrutiny they cannot decipher. That situation is exacerbated when refunds apply for only 30 days after the first charge when, in our experience, it may take up to 4 months after the bill is issued for consumers to identify slamming problems.

We recognize that the Commission has also taken steps to clarify billing information. We have submitted comments in the

FCC's Truth-In-Billing proceeding. We urge the FCC to resolve those issues quickly so consumers will have meaningful remedies.

B. Beyond the Grace Period

The FCC also proposed that beyond the grace period, if a customer paid the illegal charges, the authorized carrier would be entitled to collect and keep that entire amount from the unauthorized carrier. (NPRM, at 141) When the consumer has paid illegal charges beyond the grace period, the NYSCPB asks that the Commission order the authorized carrier to refund any amount in excess of the authorized carrier's rates to the consumer. The authorized carrier would then retain only the charges it would have made if service had been rendered. This would treat consumers who paid illegal charges in the same manner as those who did not. In Commission's Order, beyond the grace period, a subscriber who did not pay the illegal charges is responsible to pay the authorized carrier at the authorized carrier's rates for that period. (NPRM, at 142)

III. SOFT SLAMS MUST BE PROHIBITED.

The switchless reseller loophole must be closed. "Soft" slams work because switchless resellers use the CICs of their underlying facilities-based carriers. Thus, switchless resellers may "soft"slam without detection by either the consumer or the local

exchange company (LEC) who checks CIC codes.

This problem is compounded because if the LEC cannot detect any carrier change, the switchless reseller may also bypass the consumer's preferred carrier freeze protection. Accordingly, consumers pay unauthorized charges and are lulled into a false sense of security that a preferred carrier freeze is valid. Further, the LEC, the gatekeeper for freeze protection, cannot detect any change or prevent the loss of revenue.

The Commission has identified three possible remedies for "soft" slams:

1. All resellers obtain a CIC;
2. All resellers obtain a "pseudo-CIC;" or
3. All facilities-based carriers modify systems to allow identification of resellers for freezes and billing. (NRPM, at 149)

We commend the FCC for seeking a solution, which would eliminate "soft" slams. We support option No. 1, all resellers should obtain a reseller-specific CIC. While there may be a cost to the reseller industry, this is a problem caused by some switchless resellers. Resellers, preferably switchless resellers, should bear the costs of the remedy.

The other options offered by the Commission, pseudo-CICs or computer system modifications to allow switchless reseller identification are more costly. In contrast, reseller-specific CICs would place the cost burden on the cost causer.

We caution, however, that even this solution may not be sufficient if it stops short of identifying the slamming carrier on a consumer's bill conspicuously and in clear and unambiguous words. The use of even a reseller-specific CIC code on a bill as the only identifier would only serve to introduce another complication for an already confused consumer. We recommend that facilities-based carriers modify bills to identify resellers by name and contact information. This cost should be assessed to resellers as part of the LEC's collection agreements and would not then burden innocent parties.

IV. INDEPENDENT THIRD PARTY VERIFICATION RULES SHOULD BE REVISED.

In the NPRM, the Commission acknowledged that it had seen many instances of abuse for independent third party verification of carrier change requests.[7] (NPRM, at 165) The FCC clarified that the verifier must:

(1) be truly independent of both the carrier and any telemarketing agent;
(2) not be incented to engage in deceptive practices; and
(3) confirm clearly and conspicuously the previously obtained authorization. (Id.)

The Commission also sought comment on whether certain

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7 There are three approved methods for carrier change request verification: written letter of agency (LOA), electronic authorization, and independent third party verification. (NPRM, at 76)

modifications to third party verification of carrier change requests would be beneficial:

(1) third party verification including the subscriber, the new carrier and the verifier;
(2) the standardization of verification content and format;
(3) the use of automated third party verification systems; and
(4) verifiers dispensing additional information. (NPRM, at 167-68)

Third party verification cannot be objective or independent, as the Commission requires, if the new carrier is present on the call. We recognize, however, that using a three-way call among the subscriber, the new carrier and the verifier is the most efficient means to accomplish verification. Therefore, we recommend that the carrier be allowed to set up the call, but must exit when the verifier and the subscriber have been connected.

We also support standardizing verification content and format. FCC standardization would establish clear guidelines and eliminate questions as to what is or is not permissible. In this regard, a standardized verification must include separate statements of each service offering. For example, as we explain in Point IV and the Commission requires for LOAs, a consumer should not be compelled to switch an intraLATA carrier because the customer chose to switch an interLATA carrier. Furthermore, while third party verification would ideally require an independent physical location, an automated system based upon standardized format and content and a

toll free identification number would be acceptable if the carrier's representative does not participate in the verification call except to connect the parties.

We would not, however, allow automated or live verifiers to dispense additional information. There is clearly some additional information that may be useful to consumers, but to do so may introduce a marketing bias, which the third party verification is designed to eliminate. With the prevalence of slamming and the existing abuse of third party verification procedures, we urge the Commission to prohibit third party verifiers from providing additional information until data demonstrates that slamming complaints have been minimized.

V. INTERNET CARRIER CHANGE REQUEST LOOPHOLES MUST BE CLOSED.

In its Order in this proceeding, the Commission found, that the application of the FCC's verification rules to carrier change requests over the Internet had led to varying interpretations. (NPRM, at 170) It sought comment on whether:

1. a carrier change submitted over the Internet could be a valid LOA, especially regarding the signature requirement;
2. credit card number submission for verification would protect consumers;
3. additional methods of verification might be appropriate for the Internet;
4. carriers could require a consumer to accept both interLATA and intraLATA toll service; and

5. a request to institute or lift a freeze could be made over the Internet. (NPRM, at 171-75)

A. There Must Be No Exceptions For Carrier Change Requests Made Via the Internet.

The FCC in its Order in this proceeding is very clear that "strong prophylactic measures" are needed to eliminate slamming. (NPRM, at 18) This is especially true of carrier change requests made over the Internet. The Internet can promote efficiency and convenience for both carriers and consumers, but the price of efficiency and convenience should not be increased slamming complaints. In our experience, unscrupulous operators will gravitate to any areas where enforcement loopholes remain. This is especially true of the Internet where it is relatively easy to set up a web page containing electronic forms to change telecommunications providers. In fact, it is so easy that spamming, the sending of unwanted e-mail, is a common practice. Further, spammed e-mail often cannot be returned to sender because the return address given does not exist. Given the ease of misuse of the Internet, the FCC should err on the side of more stringent, rather than relaxed requirements.

B. Typed Signatures Are Not Acceptable.

The FCC notes that certain carriers combine carrier change authorization and verification forms on the Internet substituting the typing of a consumer's name for a written signature. (NPRM, at

171) That method of change and verification should be banned. An "electronic signature" identifies neither the signer nor the person authorized to make telecommunications decisions for the household. Moreover, while differences in handwriting may permit identification of the signer, there are no discernible differences for a typed signature. Thus, the Commission should require a hand written signature for an Internet LOA.

C. Internet Carrier Change Verification Must Require Multiple Credible Identity Verifiers.

The NPRM requests comment on whether the use of a consumer's social security number, credit card number, mother's maiden name or other information would be an adequate substitute for a written signature for Internet carrier change request. (NPRM, at 172) We agree that some form of Internet verification is appropriate and is fast becoming a common business tool. Many banks already offer Internet account access for customers and permit transfers between accounts.

Thus, the NYSCPB recommends that Internet carrier change verification at secure transmission encrypted sites be permitted if at least **five** credible identity verifiers, instead of a typed signature, are used. In no case, however, should those verifiers include a credit card number. Additionally, a social security number would be acceptable only in the context of other

information. Credible identity verifiers include:

(1) the correctly spelled first and last name and middle initial and suffix, if relevant;
(2) the consumer's full address, including apartment number, if relevant, and years at that address;
(3) the consumer's full business address and title;
(4) the consumer's social security number;
(5) maiden name of the consumer's mother or legal guardian;
(6) a prior address and years of residence at that address; or
(7) the date of birth of the consumer or consumer's spouse.

The principal problem with Internet carrier change verification is not the need to ensure that the information is protected. That is a fundamental prerequisite, but that legitimate need could be addressed by a FCC requirement that all verification sites be secure transmission encrypted. Rather the principal problem is identity theft, i.e. much of the information used to verify the identity of an individual may already be public knowledge so that slamming a customer using the Internet is feasible.

This necessitates the use of multiple identity verifiers. For example, some states use social security numbers on driver's licenses.[8] Thus, a stolen or lost driver's license or a state that

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8 For example, " Massachusetts driver licensing officials told us that their driver records are public and that the state includes individuals' license numbers (usually the SSN) when providing information to organizations or people requesting driver records. " U.S. General Accounting Office, Social Security: Government and Commercial Use of the Social Security Number Is Widespread, GAO/HEHS-99-28, February 16, 1999, at 12,

sells its driver's license list reveals the owner's name, address, social security number, and date of birth - four commonly used verifiers.[9] A national verification system, if based upon this information, must include other verifiers to prevent slamming.

Credit card numbers or ATM numbers, however, are available from slips of paper discarded or lost, or from lists made by purchases from unsecured web sites. E-mail addresses may be listed on the Internet by carrier directories (aol.com) in the same manner as business or home telephone numbers are available. Thus, it is imperative that the Commission order the use of multiple un-compromised identity verifiers.

Additionally, the NYSCPB recommends that carriers using the multiple identity verifiers match at least five with a reasonable degree of certainty.[10] This permits, for example, verification if a consumer incorrectly specifies the letter of the middle initial. The NYSCPB recommends that any Internet carrier change verification must include secure transmission encrypted sites and the use of at least five credible identity verifiers identified with a reasonable

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where SNN is used for social security number.

9 This is also the reason that national verifiers need to be multiple. For example, in New York State, which does not use social security numbers on driver's licenses, a smaller number of verifiers would be necessary than for a national system that includes states that utilize social security numbers for that purpose.

10 See also, Cal. Civ. Code §1745.14(a)(1).

degree of certainty.

D. Internet Carrier Change Solicitations That Require Consumers Desiring to Change Their InterLATA Long Distance Carrier to Also Switch IntraLATA Toll Service Should Be Banned.

The Commission tentatively concluded that Internet carrier change solicitations that do not give consumers the option of choosing only interLATA service by a carrier, but instead require the consumer to accept both interLATA and intraLATA toll service from a carrier is a violation of FCC's LOA rules. (NPRM, at 174) The NYSCPB agrees. The Commission's rules state that:

> To the extent that a jurisdiction allows the selection of additional preferred carriers (*e.g.*, local exchange, intraLATA/intrastate toll, interLATA/interstate toll, or international interexchange) the letter of agency must contain <u>separate statements</u> regarding those choices. . . (47 C.F.R. §64.1160 (e) (4), emphasis added)

This rule is intended to ensure that consumers make informed choices about telephone services, and in particular, about switching carriers. The rule makes no exceptions for Internet carrier change verifications, and we urge that the Commission not do so. The FCC's rule is reasonable and protects consumers. Its violators should be prosecuted.

E. The Same Standards Should Apply to Internet Carrier Change Verifications and Preferred Carrier Freezes.

The FCC requested comment on several questions about preferred

carrier freeze issues on the Internet:

(1) how to identify the actual subscriber;
(2) how to verify freezes, a request or a lift; and
(3) how freeze requests or lifts should be secured, if permitted. (NPRM, at 175)

The NYSCPB believes that any Internet verification procedures adopted for carrier change requirements should also apply to carrier freezes. Since unauthorized account freezes deprive consumers of control over their choice of preferred carrier, the rules governing the appropriate form and verification of carrier change requests should also apply to freeze requests, for either implementation or lifts. That solution would balance consumer protection with the ability of consumers to freeze their telecommunications provider(s) in a convenient manner.

Moreover, the prevalence of identity theft requires the use of multiple credible identity verifiers and the use of secure transmission encrypted sites if the procedures do not include a written signature. We suggest that with the use of multiple credible identity verifiers and secure transmission encrypted sites, the same procedures we suggest for carrier change request verification should be used on the Internet to lift or establish carrier freezes.

VI. THERE IS ONLY ONE SUBSCRIBER.

To maximize consumer protection and convenience, and promote competition, the FCC sought comment on how to define a subscriber. (NPRM, at 176-78) The Commission had not previously delineated the term, but inquired as to the advantages and disadvantages of considering a subscriber as multiple individuals.

The NYSCPB believes that there is only one subscriber and that the FCC should find that only the person(s) named on the bill should be authorized to order or change telecommunications services. We recognize that there is an element of consumer convenience in permitting, for example, both a subscriber and spouse to alter telecommunications arrangements if only one is named on the bill, but there is also the potential to increase slamming complaints. Moreover, such a condition would add another hurdle for marketing carriers, which would have an affirmative responsibility to see that the individual switching service was indeed authorized.

We have, however, no data showing the frequency with which carriers, which allow multiple individuals to change telecommunications services, commonly encounter inter-household dispute problems. In the absence of such data and given the prevalence of slamming, we recommend <u>against</u> allowing such a potential loophole for unscrupulous operators, which would also

impose additional record keeping duties upon legitimate carriers. If, however, authorized carriers can provide data demonstrating that inter-household disputes are not a problem, we believe the Commission should consider such evidence.

VII. CARRIERS SHOULD REPORT SLAMMING COMPLAINTS TO THE FCC.

Given the prevalence of slamming complaints, the FCC proposed periodic carrier reporting of the number of slamming complaints. (NPRM, at 179) The NYSCPB believes that for the FCC to take a prompt pro-active role, a first alert system is crucial and requires a reporting system. We recommend that the FCC require electronic reports by carriers every quarter. Given the landmark changes the Commission has ordered and proposed to prevent slamming, and the changes under review in its Truth-In-Billing Notice, it is imperative for the FCC to monitor slamming complaints closely. In our experience, the number of slamming complaints is a good indicator of the problem's extent. The Commission, however, is often the last resort for the slammed consumer, who initially alerts its carrier. Only a first alert reporting system can overcome this shortcoming.

The NYSCPB also recommends that the reports be made electronically every quarter. This would balance the burden on the industry with the Commission's need to rectify slamming complaints

promptly.

VIII. THE COMMISSION SHOULD REGISTER ALL INTERSTATE CARRIERS.

The FCC proposed to:

(1) register all interstate carriers;
(2) revoke or suspend registrations with appropriate due process; and
(3) require carriers to check for FCC registration before offering service to another carrier. (NPRM, at 180)

The NYSCPB supports registration as an effective gate-keeping mechanism to screen out unqualified and unscrupulous operators. The Commission notes that states often have registration systems for intrastate carriers and authority to revoke operating licenses. (NPRM, at 181) New York has such a system and has revoked registrations for deceptive activities.[11] That revocation, however, had no effect in other states. A national registration system for interstate carriers would prevent shady operators from moving from state to state and continuing to defraud consumers.

The NYSCPB also believes that a registration system would have no useful purpose, if facilities-based carriers did <u>not</u> determine whether prospective carriers are registered. It is simply a prudent business practice for the entity which permits access to

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11 The New York State Public Service Commission (NYPSC) has investigated various companies. <u>See</u>, NYPSC 95-C-1026, Sonic Communications Corporation, <u>Order Instituting Hearings</u>, issued

its system to screen applicants. If the registration list were made available electronically, there should be little or no burden on the carrier's implementation.

The FCC should indicate that state registration systems, which may be part of a statewide enforcement mechanism, may continue. This would be consistent with the NPRM, which allowed states to implement complementary, consistent enforcement procedures. (NPRM, at 86-90)

June 6, 1995, at 2-3.

CONCLUSION

The NYSCPB urges the FCC to define the consumer grace period as thirty days after the billing date and extend that period to sixty days until the reforms under this docket and the Truth In Billing Docket are implemented. Further, we urge the Commission to double the slamming carrier's liability for the grace period in order to make whole both the consumer and the authorized carrier. Additionally, the FCC should eliminate "soft" slams; clarify third party verification rules; adopt appropriate Internet carrier change and freeze procedures; define subscriber as the individual(s) listed on the bill; and require carriers to register and electronically report complaints every quarter.

Respectfully submitted,

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