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March 11, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, DC 20554

Re: CC Docket Nos. 98-170, 98-184 -- Ex Parte Communications

Dear Ms. Salas:

On March 10, 1998, representatives of the Billing Reform Task Force ("BRTF") met with Kyle Dixon, attorney advisor to Commissioner Powell, to discuss issues relating to the above-referenced proceedings. Present on behalf of the BRTF were myself, Albert Angel, and Peter J. Brennan.

The discussions concerning CC Docket No. 98-170 involved the presentation of arguments that were substantially similar to the arguments made in the comments and reply comments filed by the BRTF in that proceeding. The discussions concerning CC Docket No. 98-184 involved concerns regarding GTE's intention to discontinue billing and collection for 900-number services. The attached documents, presented to Mr. Dixon at the meeting, accurately and completely describe the substance of both discussions.

Any questions regarding this submission may be directed to the undersigned.

Sincerely,

Edwin N. Lavergne
Counsel to the Billing Reform Task Force

Attachment
cc: Kyle Dixon, Esq.

March 10, 1999

BILLING REFORM TASK FORCE
TRUTH-IN BILLING PRESENTATION
CC Docket No. 98-170

1. **The BRTF supports the FCC's proposal to segregate "deniable" from "non-deniable" charges on telephone bills.** Pay-per-call charges, which are non-deniable, are already segregated from other telephone charges pursuant to Section 64.1510 of the FCC rules. Expanding this segregation requirement to *all* non-communications services (*i.e.,* voice mail and Internet access) would be consistent with the FCC's goal of ensuring that consumers are fully informed of the nature of all charges on their phone bills. If the failure to pay a charge would not result in the termination of phone service, there is no reason to hide this fact from the consumer.

   ACTION REQUESTED: Section 64.1510(a)(2)(ii) provides that "any charges for pay-per-call services [must be displayed] in a part of the bill that is identified as not being related to local and long distance telephone charges." This rule should be expanded to cover *all* non-deniable services, not just pay-per-call services. The rule should be applied in an equitable and nondiscriminatory manner. For example, voice mail offered by a LEC should be segregated in the same manner as voice mail offered by a LEC competitor.

2. **Pay-per-call billing notice disclosure requirements should apply to all non-deniable services in an equitable and non-discriminatory manner, and the existing requirements should be modified to minimize unwarranted chargebacks.** Section 64.1510 also includes billing notice disclosure requirements for pay-per-call services. Unfortunately, the existing disclosures actually *invite* consumer chargebacks by suggesting that telephone subscribers are not legally liable for such charges. The comments filed in CC Docket 98-170 demonstrate the seriousness of this problem. For example, in response to a proposal to extend these disclosure requirements beyond pay-per-call services, Bell Atlantic said that it "does not think that customers should be encouraged not to pay their bills." Sprint said such disclosures would increase bad debt and encourage "unscrupulous or irresponsible consumer behavior." Other carriers expressed similar concerns.

   ACTION REQUESTED. To address these concerns and ensure a level playing field among competing providers of non-communications services, the FCC should revise Section 64.1510(a)(2)(i) as suggested in Exhibit A. The Commission should then apply those revised disclosure requirements to *all* non-deniable charges, not just pay-per-call charges. The proposed revision would ensure that consumers are informed that service providers have a right to collect legitimate (albeit non-deniable) charges, that they may be denied future access to non-communications services, and that the failure to pay such charges may be reported to a credit reporting agency.

EXHIBIT A

64.1510 Billing and Collection of pay-per-call and similar service charges.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call services and offering billing and collection services to such provider shall:

* * * * *

(2) In any billing to telephone subscribers that includes charges for any interstate pay-per-call service:

(i) Include a statement indicating that:

(A) Such charges are for non-communications services;

(B) Neither local nor long distances [sic] services can be disconnected for non-payment **of these charges** ~~although an information provider may employ private entities to seek to collect such charges~~;

(C) ~~900 number blocking is available on request; and~~ **if it is determined, after a reasonable investigation, that these charges were not in error, the service provider (or other parties acting on behalf of the service provider) has the right to pursue collection of the charges, and may report your failure to pay to credit reporting agencies;**

(D) ~~Access to pay-per-call services may be involuntarily blocked for failure to pay legitimate charges;~~ **900 number blocking is available on request; and**

(E) Access to pay-per-call services may be involuntarily blocked for failure to pay legitimate charges;

* * * * *

March 10, 1999

BILLING REFORM TASK FORCE
SUMMARY OF CONCERNS REGARDING GTE

1. **What is the Billing Reform Task Force?**
The BRTF is a non-profit organization that represents the interests of 15 leading service bureaus, information providers and billing entities that provide 800, 900 and other interactive telephone services. Many BRTF members offer valuable services via 900 numbers. For example, ICN, which has been in business for over 10 years, uses 900 lines to provide the official lottery results for several State lotteries. ICN also provides weather information through The Weather Channel, personals services for dozens of major city newspapers, sports and racing results, and polling for major TV and cable networks. The TPI Group, another BRTF member, is the nation's largest provider of newspaper voice personals services.

2. **Why is the Task Force concerned about GTE's plans to stop billing for certain services?**
GTE intends to stop billing and collecting for all interstate 900 number services. There are no other economically viable ways to bill for 900 number services in GTE's territory. Thus, implementation of GTE's plan will mean that 900 number services will be unavailable to consumers in a significant portion of the United States. Moreover, if the Bell Atlantic/GTE merger goes through, the impact of this decision could be even more widespread.

3. **Why should the FCC be concerned about GTE's actions?**
GTE's decision is contrary to the FCC's goal to "encourage the availability of 900 services" because Congress found that such services "provide valuable information, increase consumer choices, and stimulate innovative and responsive services that benefit the public." *South Carolina Blocking Order*, 8 FCC Rcd 698, 700-01 (1993). GTE's decision also undermines the efforts of the FCC to encourage the use of 900 numbers, as opposed to other dialing patterns, for access to audio entertainment and information services. *See Pay-Per-Call and Other Information Services*, 11 FCC Rcd 14738 (1996). Indeed, both the FCC and the FTC are taking steps to eliminate the use of other dialing patterns for access to such services.

4. **Since the FCC has deregulated billing and collection, does it have jurisdiction to consider this matter?**

Yes. Although the FCC deregulated billing and collection services in 1986, it reserved the right to assert Title I ancillary jurisdiction over billing and collection when "necessary to ensure the achievement" of its statutory responsibilities. *Audio Communications, Inc. Petition for a Declaratory Ruling*, 8 FCC Rcd 8697, 8700 (1993). The exercise of Title I jurisdiction is necessary here to carry out the statutory goal of the Telephone Disclosure and Dispute Resolution Act of 1992 ("TDDRA") to "promote the development of legitimate pay-per-call services." 11 FCC Rcd 14738, 14740. The exercise of Title I jurisdiction is also necessary to carry out the FCC's objective of "maintaining the general availability of, and easy access to, 900 services." 8 FCC Rcd 698, 701.

5. **What should the FCC do?**

A. **Rocket Docket.** The Commission should initiate an accelerated docket proceeding to address the BRTF's claim that GTE's actions violate the TDDRA's mandate to promote the development of legitimate pay-per-call services. BRTF members will present evidence establishing that there are no competitive alternatives to billing and collecting for 900 services in GTE's territory. If the FCC finds that no alternatives are available, the BRTF would ask the FCC to narrowly exercise its Title I jurisdiction to require GTE to continue billing and collecting for 900 services on reasonable terms and conditions until such time as other viable alternatives are available.

B. **Merger Conditions.** The Commission should advise GTE and Bell Atlantic that it is concerned about this issue in light of their merger plans, and should develop an appropriate record before permitting the merger.

C. **Industry Forum.** The Commission should convene an industry forum to discuss billing and collection discrimination and access problems generally.