

ORIGINAL

DOCKET FILE COPY ORIGINAL

Before the  
Federal Communications Commission  
Washington, D.C. 20024

RECEIVED  
MAR 18 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Implementation of the Subscriber Carrier )  
Selection Changes Provisions of )  
the Telecommunications Act of 1996 )  
)  
)  
Policies and Rules Concerning )  
Unauthorized Changes of Consumers' )  
Long Distance Carriers )

CC Docket No. 94-129

**COMMENTS OF TELTRUST, INC.  
ON THE FURTHER NOTICE OF PROPOSED RULEMAKING**

**TELTRUST, INC.**

Steven P. Goldman  
Vice President and General Counsel  
6322 South 3000 East  
Salt Lake City, Utah 84121

Of Counsel:

Leonard J. Kennedy  
Loretta J. Garcia  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
(202) 776-2000

March 18, 1999

No. of Copies rec'd 014  
LISA BODE

## TABLE OF CONTENTS

|  |    |
|--|----|
| Summary .....  | i  |
| Introduction .....   | 1  |
| I. Third Party Verification Must Be Truly Independent of the Soliciting Carriers .....   | 2  |
| II. Live Third Party Verification Is More Effective in Confirming the Consumer's Intentions than is Automated Third Party Verification ..... | 7  |
| III. The Commission Should Set Minimum Standards for the TPV Contact, but It Should Not Dictate the Contents of the TPV Script .....         | 9  |
| IV. The Commission Should Require TPV Entities to Register with the Commission Before They May Confirm Carrier Changes .....                 | 12 |
| V. The Commission Should Require Carrier Changes Made Via the Internet To Be Confirmed Using Independent Third Party Verification .....      | 13 |
| VI. Third Party Verification Should Continue Even if Third Party Administration of Carrier Changes Is Established .....                      | 15 |
| Conclusion .....   | 18 |

---

## Summary

Teltrust, Inc. ("Teltrust") applauds the Federal Communications Commission's ("FCC" or "Commission") efforts to deter the practice known as "slamming" by establishing more stringent verification procedures. Teltrust submits that the use of live-agent independent third party verification ("TPV") to verify changes in telecommunications providers and services best meets the Commission's mandate that third party verifiers be independent of telecommunications carriers.

A third party verifier must be truly independent of the carrier and the telemarketer agent in order to perform a valid verification. Thus, the telemarketer should not be permitted to remain on the line after the subscriber is connected to the third party verifier. Furthermore, "live-scripted" verifications where the carrier's sales representative asks scripted questions to confirm the customer's intention to change carriers are not independent of the carrier and should not be considered acceptable.

Live -agent TPV is more effective in confirming the consumer's intentions than is automated third party verification. Live-agent TPV is superior because a live agent can answer questions asked by the consumer, whereas an automated system has no capability to interact with the consumer. Furthermore, a live agent can listen for indications that a fraudulent carrier change transaction is being attempted and can reject the carrier change. In the interest of the consumer, the Commission should encourage the use of the most effective means of verification.

In order to ensure the integrity of the third party verification process, the Commission should set minimum standards that prohibit marketing on the part of third party verifiers. However, it is neither necessary nor practical for the Commission to mandate specific content

requirements for TPV calls. TPV agents should be allowed to provide simple information that is contained in the script, such as information about the carrier, the products and services requested and their prices. Nonetheless, TPV entities should reject a transaction if it becomes clear that the customer is unsure of the carrier or services to which it has subscribed. TPV entities should be permitted to provide carrier freeze information upon customer request. Indeed, TPV entities should be able to verify both the initiation and removal of carrier freezes. By utilizing the same verification procedures for carrier changes, installation of preferred carrier freezes and the removal of preferred carrier freezes, the Commission would promote consumer choice and understanding in an administratively efficient manner.

Teltrust recommends that the Commission require TPV entities to file a registration form. This would enhance the Commission's ability to ensure that TPV entities are appropriately qualified, that they operate in different physical locations from the carrier and that their verification process is not flawed by any financial incentives from carriers. Registration of TPV entities would empower the Commission to terminate the TPV entity's ability to provide its services on an interstate basis. This would be a strong incentive for TPV entities not to engage in conduct that violates the FCC's rules.

Teltrust agrees that subscribing to a carrier's services via the Internet should be covered by the same safeguards as other forms of carrier solicitation. A carrier using Internet solicitations should be required to confirm the sale through TPV, a valid written LOA, or an electronic verification. "Internet LOAs" should not be considered acceptable because they are particularly subject to fraud and other abusive practices.

---

Finally, Teltrust recommends that TPV should continue to be a separate, independent function even if the Commission establishes a third party administrator for the processing of carrier changes.. The third party administrator should be charged only with functions related to the physical execution of carrier changes and the processing of carrier freezes and their removal. These are the processes that today are handled by the LECs and thus suffer from the inherent conflict of interest resulting from the LEC position as both a competing carrier and the entity that executes the carrier changes and carrier freezes

Before the  
**Federal Communications Commission**  
Washington, D.C. 20024

In the Matter of

Implementation of the Subscriber Carrier )  
Selection Changes Provisions of )  
the Telecommunications Act of 1996 )  
)  
)  
Policies and Rules Concerning )  
Unauthorized Changes of Consumers' )  
Long Distance Carriers )

CC Docket No. 94-129

**COMMENTS OF TELTRUST, INC.  
ON THE FURTHER NOTICE OF PROPOSED RULEMAKING**

**Introduction**

Teltrust, Inc. ("Teltrust"), by its attorneys, hereby submits its comments in response to the Federal Communications Commission's ("FCC or Commission") Further Notice of Proposed Rulemaking ("*Further Notice*") in the above-captioned proceeding.<sup>1/</sup> Teltrust is a diversified telecommunications company providing customized support services to the telecommunications and utilities industries since 1986. These services include national directory assistance, operator-assisted services, back office support services, customer support services and network transmission services. One of Teltrust's business units, Teltrust Teleservices, Inc. (referred to

---

<sup>1/</sup> *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 94-129, FCC 98-334 (released December 23, 1998) ("Second Report and Order" or "Further Notice").*

hereafter as Teltrust), supplies telecommunications carriers and other commercial entities with independent third party verification services ("TPV") through the use of live-agents. Teltrust is one of the largest independent third party verification companies in the United States.

Teltrust applauds the Federal Communications Commission's ("FCC or Commission") efforts to deter the practice known as "slamming" by establishing more stringent verification procedures in accordance with Section 258 of the Communications Act, as amended.<sup>2/</sup> As discussed below, TPV has been effective in controlling and deterring the unauthorized switching of customers' telephone carriers.

In response to the Commission's inquiry about the independence of different third party verification systems, Teltrust submits that, for the reasons described below, the use of live-agent independent TPV to verify when consumers change their telecommunications providers or their telecommunications services best meets the Commission's mandate that the third party verifier must be independent of telecommunications carriers.

#### **I. THIRD PARTY VERIFICATION MUST BE TRULY INDEPENDENT OF THE SOLICITING CARRIERS**

Teltrust welcomes the Commission's clarification that a third party verifier must be truly independent of both the carrier and the telemarketer agent in order to perform a valid verification.<sup>3/</sup> Teltrust also commends the Commission for strengthening the independence criteria under which TPV entities operate and agrees that the TPV entity (i) should not be owned,

---

<sup>2/</sup> 47 U.S.C. § 258.

<sup>3/</sup> *Second Report and Order* at 44-45, ¶ 70.

managed, controlled or directed by the carrier; (ii) should not be given financial incentives to approve carrier changes and (iii) must operate in a location physically separate from the carrier.<sup>4/</sup>

In the *Further Notice*, the Commission seeks comments on the independence of different third party verification systems, in essence asking whether verification can be considered independent if the telemarketing carrier's representative remains on the call during the verification, after the subscriber has been connected to the third party verifier.<sup>5/</sup> As the Commission emphasizes, the intent behind the independent third party verification rule is to produce evidence independent of the telemarketing carrier that the subscriber wishes to change his or her carrier.<sup>6/</sup> Consequently, the telemarketer should not be allowed to remain on the line after the subscriber has been connected to the third party verifier.

The Commission specifically asks for comments on two types of TPV systems: (1) the automated verification recording system when the telemarketing carrier's representative remains on the call during verification; and (2) the "live-scripted" automated TPV system offered by Voice Log, LLC. In the live-scripted automated verification system, the carrier's representative sets up a three-way conference call between the subscriber, the carrier's representative and the automated recording system, the system begins recording, at which point the carrier's representative asks scripted questions to obtain the necessary information about the subscriber's account and to confirm that the subscriber wishes to change his or her carrier.<sup>7/</sup>

---

<sup>4/</sup> *Id.* at 45, ¶ 71.

<sup>5/</sup> *Further Notice* at 94-96, ¶¶ 165-168.

<sup>6/</sup> *Second Report and Order* at 44-45, ¶ 70.

<sup>7/</sup> *Further Notice* at 90-91, ¶ 167.

Teltrust believes that any TPV process that allows the carrier's representative or agent to remain on the line with the subscriber during the verification call with the TPV entity cannot be considered independent from the carrier. A TPV process where the telemarketing carrier's representative retains a role does not produce any evidence independent from the carrier that a subscriber truly wishes to change his or her carrier, and thus falls short of meeting the objective behind the verification rules.

As one can easily imagine, a consumer may feel intimidated or pressured in responding to questions a certain way if the telemarketer who just sold him or her the services remains on the line during the call and, in the case of "live-scripted" automated verification, even is asking the questions for purposes of verification. Furthermore, the risk that the sales representative may ask the questions in a leading or misleading manner -- thereby eliminating all chance of obtaining confirmation that the subscriber has authorized a carrier change -- is inherent in the "live-scripted" version of the TPV. In its *Second Report and Order*, the Commission already expressed its concern that the script should not mirror any carrier's marketing pitch nor market the carrier's services.<sup>8/</sup> In the *Further Notice*, the Commission expresses doubts about the appropriateness of the "live-scripted" version of the TPV system, questioning whether it is "at odds" with its rules because it permits the carrier itself to solicit the subscriber's confirmation.<sup>9/</sup> Teltrust concurs with the Commission's doubts about the truthfulness of the verification under a "live-scripted" TPV system or any kind of TPV system that allows the telemarketing carrier's representative to remain on the call and believes that these concerns are sufficient to justify

---

<sup>8/</sup> *Second Report and Order* at 44, ¶ 72.

<sup>9/</sup> *Further Notice* at 91, ¶ 167.

rejecting these verification processes. These types of verification are not truly independent from the carrier's sales efforts because the carrier's sales representative, who is inextricably linked to the carrier, remains present during the TPV call. In the case of a live-scripted TPV, even if the TPV agent performs her verification function by listening to the recorded conversation between the carrier's representative and the subscriber, this would not prevent slamming because the verification takes place after the TPV call is completed and the consumer has hung up. Therefore, the TPV agent has no opportunity to assess the subscriber's intention before the switch is made.

Instead, Teltrust supports the recommendation by the National Association of Attorneys General ("NAAG") that independent TPV should be separated completely from the sales transaction.<sup>10/</sup> However, Teltrust disagrees with the NAAG's position that the carrier's sales representative or agent should not be permitted to use a three-way call to connect the subscriber to the TPV entity. Teltrust does not oppose the use of a conference call to establish the connection between the consumer and the TPV entity. Such a connection should be acceptable, provided the carrier's sales representative drops off the call once the connection is made between the subscriber and the TPV entity. The carrier should be able to make a connection to the TPV entity via conference calling or via an arranged network connection.

In the case of Teltrust's live-agent TPV, after a carrier's telemarketing sales representative has made a sale of service to a prospective customer, the sales representative connects the customer with a live Teltrust TPV agent and drops off the call once the connection is established between the customer and Teltrust's TPV agent. Only then does Teltrust's TPV agent ask the

---

<sup>10/</sup> *Id.* at 90, ¶ 166.

customer a series of questions to confirm that the customer intends to switch service providers or to purchase new services from the current service provider. A live-agent independent TPV method makes sure that the customer understands and agrees to the transaction that has been completed, without any intervention from the carrier's telemarketing representative. If the Commission is genuinely interested in establishing truly independent TPV, it cannot encourage methods of TPV that, by allowing the carrier to participate in or intervene in the conversation between the TPV agent and the customer, eliminate or reduce the customer's last chance to refuse a transaction that may have been unwillingly accepted.

In sum, Teltrust believes that a connection made by a three-way conference call between the consumer, the carrier's sales representative and the TPV entity where the sales representative hangs up after the connection is made is acceptable because it does not compromise the independence of the TPV entity. In the other scenarios described by the Commission -- the conference call in which the carrier's sales representative stays on the TPV call and the conference call in which the carrier's sales representative asks scripted questions to confirm the customer's intention to change carriers -- the independence of the TPV entity is compromised. Therefore, the Commission should reject these types of verification scenarios and support the live-agent independent TPV method.

## II. **Live Third Party Verification Is More Effective in Confirming the Consumer's Intentions than Is Automated Third Party Verification**

The FCC asks parties to discuss the advantages and disadvantages of live-agent third party verification versus automated TPV systems.<sup>11/</sup> With live-agent TPV, the consumer is on the line during the entire verification process with a real person, who is independent of the soliciting telecommunications carrier and who makes sure the consumer understands and assents to the transaction being made. This TPV agent asks the customer a series of questions to confirm that the customer intends to switch service providers or to purchase new services and also may confirm the rates of the acquired services. Live-agent TPV is superior because a live agent can answer questions asked by the subscriber, whereas an automated system has no capability to interact with the consumer.

The FCC notes that automated systems may be able to record the subscriber's voice and thus may indicate the subscriber's state of mind.<sup>12/</sup> While an automated system may record the customer's voice, this automated recording is of limited value because, in many automated operations, a live person does not listen to the TPV transaction until a problem arises and a consumer has complained about the carrier change. By the time a live person listens to the tape, it may be hours or days or weeks after the TPV transaction actually occurred. By that time, even if the live person were to detect suspicious circumstances, this would not occur until after the TPV transaction is terminated and an unauthorized carrier switch has occurred. Moreover, the live person listening to the tape is likely to be the carrier's sales representative or someone else

---

<sup>11/</sup> *Id.* at 90-91, ¶ 167.

<sup>12/</sup> *Id.*

employed by the carrier.<sup>13/</sup> The priority for that individual is to "save the sale" rather than to determine the consumer's state of mind. This automated recording is more effective as protection for the carrier than as protection for the consumer.

An automated system is also of little value if the customer does not fully understand the recorded message because there is no one who can resolve the consumer's questions and such a transaction may result in an unauthorized carrier charge. A live TPV agent can detect the customer's state of mind simultaneously with the TPV transaction, while the customer is still on the line. A live-agent TPV system also can easily accommodate foreign languages and can conduct the TPV transaction in the same language as used in the carrier change transaction. A live agent is more apt to allow the customer to make an informed decision on the transaction than an automated recording.

Furthermore, the live agent can listen for "red flags" that may indicate a fraudulent transaction is being attempted. Red flags might include responses that seem scripted or coached, indicating that the alleged customer is not a true customer. If a Teltrust agent suspects fraudulent circumstances, the agent would reject the carrier change and the soliciting carrier would be unable to process that change order. Thus, the record produced by the live-agent independently from the carrier is more likely to provide irrefutable evidence about the true intention of the customer.

The Commission observes that one of the advantages of automated TPV is that it produces a recording of the TPV transaction. However, recording of the TPV transaction is not unique to automated systems. Recordation also is a feature of Teltrust's live-agent TPV process.

---

<sup>13/</sup> See e.g., Comments of Voice Log at 6 (Aug. 13, 1997).

Teltrust uses a digital recording process that has high resolution and thus provides more accurate evidence of the consumer's voice authorization.

In fact, recordation is such an important benefit of TPV that Teltrust believes TPV entities should be required to record the carrier change using a voice recording device. Voice recordation will allow for the strongest and most convenient confirmation that the consumer actually requested the change of carrier and the subject services if a question arises later. Thus, recordation of the customer's voice during the transaction will assist in the resolution of disputes about unauthorized carrier changes.

The FCC notes that some commenters argue that automated TPV is more economical to use than live verifiers.<sup>14/</sup> Teltrust believes that, in the interest of the consumer, the Commission should encourage carriers to use the most effective means of verification and should discourage carriers from merely going through the motions of verifying the customer's intention to change carriers. For the foregoing reasons, live-agent TPV coupled with digital voice recording is superior to automated TPV that records the transaction.

### **III. The Commission Should Set Minimum Standards for the TPV Contact, but It Should Not Dictate the Contents of the TPV Script**

In the *Further Notice*, the FCC asks whether it should define the content of third party verification contacts.<sup>15/</sup> In order to ensure the integrity of the third party verification process, the Commission should set minimum standards and should prohibit marketing on the part of third

---

<sup>14/</sup> *Further Notice* at 94-95, ¶ 167.

<sup>15/</sup> *Id.* at 91, ¶ 168.

party verifiers. As discussed above, Teltrust supports the Commission's decision to remove financial incentives for a third party verifier to approve carrier changes. The minimum content requirements should include some of the requirements proposed by the NAAG,<sup>16/</sup> specifically: (1) the name of the carrier; (2) whether the person requesting the carrier change (or change in services) is authorized to request a change for that telecommunications account; (3) the types of services affected by the transaction (local, in-state toll, out-of-state toll or international); and (4) prices for the requested services. However, it is not necessary for the Commission to mandate specific content requirements for third party verification calls. Indeed, it would be impractical and a waste of Commission and industry resources for the Commission to define the format and content of third party verification scripts.

The Commission also asks whether third party verification entities should be permitted to provide any additional information to the consumer.<sup>17/</sup> Third party verification agents should be allowed to provide simple information that is contained in the TPV agent's script. For example, scripts used by TPV agents might include information about the carrier itself and information on a range of services and prices offered by that carrier. Teltrust works in cooperation with its carrier clients to design a script that will meet the circumstances Teltrust's TPV agents will encounter. Because this script is prepared by an independent TPV entity and read by an independent TPV agent, the neutrality of this script is guaranteed contrary to a "live-scripted" verification performed by the carrier itself.

---

<sup>16/</sup> *Id.*

<sup>17/</sup> *Id.*

Nevertheless, the FCC should prohibit the TPV entity from crossing the line into marketing of the carrier or its services. Third party verification entities should reject a TPV transaction if it becomes clear that the customer is unsure of the carrier or services to which it has subscribed. In a Teltrust TPV transaction, if the customer discovers she needs information beyond the types described above, the Teltrust agent rejects the confirmation and transfers the customer back to the carrier's sales department for further sales discussion. After the additional information is provided by the carrier, the carrier then transfers the customer to Teltrust for TPV confirmation. This is the best way for the TPV entity to maintain true independence from the carrier and for the customer to make an informed and unpressured choice about whether or not to switch carriers or subscribe to additional services. Providing sales and marketing information is not the role of the TPV entity and providing such information would compromise the independence of the TPV agent.

The FCC also asks whether the independent TPV entity should be permitted to give information on preferred carrier freeze procedures. Third party verification entities should be permitted to provide carrier freeze information. Indeed, not only should TPV entities be able to supply information on carrier freezes, they should be able to verify carrier freezes. The FCC already has decided to require verification for the installation of a carrier freeze so that local exchange carriers ("LECs") cannot use freezes as a tool to gain an unreasonable competitive advantage.<sup>18/</sup>

The Commission should extend verification requirements to the removal of carrier freezes as well. For all the reasons verification makes sense for carrier freeze initiations,

---

<sup>18/</sup> *Id.* at 72-73, ¶ 125.

verification also makes sense when a consumer removes the carrier freeze to take advantage of competition and change carriers. For example, verification of the removal of a carrier freeze will reduce customer confusion about which telecommunications service will be affected by the removal of the preferred carrier freeze. In addition, verification will prevent anti-competitive conduct in the removal of carrier freeze protection. By utilizing the same verification procedures for carrier changes, preferred carrier freezes and the removal of preferred carrier freezes, the Commission will be able to promote consumer choice and understanding in an administratively efficient manner.

#### **IV. The Commission Should Require TPV Entities to Register with the Commission Before They May Confirm Carrier Changes**

The Commission proposes requiring carriers to register with the Commission before they may provide interstate services.<sup>19/</sup> Teltrust takes no position on the registration of telecommunications carriers. However, Teltrust recommends that the Commission require TPV entities to file a registration form. This requirement would enhance the Commission's ability to ensure that TPV entities are appropriately qualified, operate in a different physical location from the carrier and that their verification process is not flawed by any financial incentives from carriers.

Teltrust proposes that the registration contain, at a minimum, the following information: (1) the name and address of the TPV entity; (2) a list of each officer, director and stockholder owning ten percent or more of the TPV's outstanding capital stock if the TPV entity is a

---

<sup>19/</sup> *Id.* at 96-97, ¶¶ 180-182.

corporation; (3) a list of the names and addresses of principal partners if the TPV entity is a partnership; (4) a list of companies for which the entity provides TPV services; (5) verification that the TPV entity operates in a location physically separate from any company for which it provides TPV services; (6) verification that the TPV entity is not directly or indirectly managed, controlled, directed or owned wholly or partially, by any interexchange carrier ("IXC") or local exchange carrier ("LEC"); and (7) verification that the TPV entity is not compensated in any way based on the number of confirmed customer authorizations. The Massachusetts Department of Telecommunications and Energy ("MDTE") has adopted a registration requirement for TPV entities which could serve as a good model for a Commission registration requirement.<sup>20/</sup> Registration of TPV entities would empower the Commission to terminate the TPV entity's ability to provide its services on an interstate basis. This is a strong incentive for the TPV entity not to engage in conduct that violates the FCC's rules.

#### **V. The Commission Should Require Carrier Changes Made Via the Internet To Be Confirmed Using Independent Third Party Verification**

Teltrust agrees with the FCC's assessment that subscribing to a carrier's services via the Internet should be covered by the same safeguards to prevent slamming as other forms of carrier solicitation.<sup>21/</sup> As the Commission noted, "[i]t is the very ease with which a subscriber may change carriers using the Internet that also makes the Internet fertile ground for slamming."<sup>22/</sup>

---

<sup>20/</sup> Mass. Gen. Laws, ch. 159, § 12E(a)(3). Any company that provides TPV services in Massachusetts must complete a registration form and submit it to the MDTE.

<sup>21/</sup> *Further Notice* at 92, ¶ 169.

<sup>22/</sup> *Id.*

Consequently, Teltrust urges the Commission to require the use of independent third party verification when a carrier solicits customers via the Internet.

Teltrust proposes that changes of telecommunications providers, purchases of telecommunications services, or the imposition or lifting of preferred carrier freezes made via the Internet could be confirmed either by having the consumer call the TPV entity's toll-free telephone number or by having the TPV entity contact the consumer. For a verification using a toll-free number, the soliciting carrier would post on its website the toll-free number(s) of the TPV entity, along with an explanation that the change of telecommunications providers or purchase of telecommunications services cannot take effect until confirmed by an independent TPV entity. For the latter approach, the soliciting carrier would obtain the customer's telephone number and Internet address and would relay that information to the TPV entity. The TPV entity would call the customer and explain that the change of telecommunications providers or purchase of telecommunications services is not effective until it is confirmed by an independent TPV entity. If the TPV entity fails to reach the customer, the TPV entity would leave a voice mail message and would send an electronic mail message stating that the customer must call the TPV entity within 24 hours to confirm the transaction, or it will be void. The TPV entity would leave its toll-free telephone number in these messages to facilitate the consumer's contact with the TPV entity.

The FCC asks if a form filled out via the Internet is a valid letter of agency ("LOA"), and specifically whether an electronic signature is sufficient to meet its verification requirements.<sup>23/</sup> As the Commission noted, a typed "signature" does not identify the "signer" as the actual person

---

<sup>23/</sup> *Id.* at 92-93, ¶¶ 170-172.

who "signed" the document.<sup>24/</sup> Indeed, the electronic "signature" does not verify that the "signer" is authorized to make telecommunications decisions. Furthermore, there is no way to compare a typed "signature" with a person's handwritten signature to make sure the electronic signature is authentic. This makes the Internet LOA subject to fraud and other abusive practices.

As the FCC has observed, to the extent that a carrier change using the Internet cannot produce a valid LOA, then a carrier using Internet solicitations must either confirm the sale through TPV, a valid written LOA, or an electronic verification.<sup>25/</sup> Teltrust submits that independent TPV provides assurance of the customer's authorization, convenience for the customer and prompt confirmation of the Internet transaction.

#### **VI. Third Party Verification Should Continue Even if Third Party Administration of Carrier Changes Is Established**

At the suggestion of the FCC, an industry coalition is implementing a third party administrator to resolve slamming complaints, to issue related refunds or credits to consumers, and to direct the executing carriers to switch the customer back to his/her authorized carrier.<sup>26/</sup> The Commission now seeks comment on whether this third party administrator also should be tasked with administration of carrier changes and preferred carrier freezes.<sup>27/</sup> It is not entirely clear that the Commission intends to include third party verification among the functions that would be handled by this third party administrator. The title of the section on third party

---

<sup>24/</sup> *Id.* at 93, ¶ 171.

<sup>25/</sup> *Id.* at 93, ¶ 173.

<sup>26/</sup> *Second Report and Order* at 35-36, ¶¶ 55-57.

<sup>27/</sup> *Further Notice* at 98-99, ¶¶ 183-184.

administration does not include verification, nor does the conclusion. However, third party verification is mentioned in the discussion of third party administration.<sup>28/</sup> To the extent that the Commission is considering TPV as a function for the third party administrator, Teltrust wishes to clarify that third party verification should continue to be a separate, independent function.

Third party administration may be appropriate for the processes of changing the carrier designation in the network and for freezing or unfreezing a carrier designation. These are processes that today are handled by the LECs and thus suffer from the inherent conflict of interest resulting from the LEC position as both a competing carrier and the entity that executes the carrier changes and carrier freezes. These problems have been discussed at length in comments submitted previously in this proceeding.<sup>29/</sup> The FCC should remove the LEC from these processes to remedy the inherent conflict of interest problem. Here, the third party administrator can play an important role.

However, the third party administrator should be charged only with functions related to the physical execution of carrier changes and the processing of carrier freezes and their removal. Independent TPV is not plagued by concerns about anti-competitive conduct. TPV already is independent of the carriers and the FCC has taken steps to further enhance the true independence of TPV entities. The TPV function is and should be kept separate from the execution of change orders and the installation or removal of carrier freezes.

---

<sup>28/</sup> *Id.*

<sup>29/</sup> *Second Report and Order* at 62-68, ¶¶ 102-111 and 70-72, ¶¶ 115-118.

The majority of slamming complaints result from problems with LOAs,<sup>30/</sup> not with carrier changes that have been confirmed by TPV. As a testament to the effectiveness of third party verification, states increasingly are turning to TPV to protect consumers against slamming in their intrastate markets. For example, the California legislature and the California Public Utilities Commission mandate the use of TPV to confirm all changes of telephone service providers made by residential consumers.<sup>31/</sup> The California statute provides that for changes of residential telephone services, the telephone company must confirm the change of telephone carriers using an independent TPV company.<sup>32/</sup> Significantly, the California commission staff have been so impressed with the effectiveness of TPV in confirming residential customer choice that they have recommended that the commission extend mandatory TPV to business customer requests to change their telephone service providers.<sup>33/</sup> Other states have instituted TPV requirements to curb slamming and to ensure that carriers respect customers' choices of local or

---

<sup>30/</sup> The California legislature found that LOAs caused the greatest share of consumer slamming allegations. Bill Analysis, SB 1140, Calif. Senate Rules Committee, p. 3 (July 8, 1996).

<sup>31/</sup> Cal. Pub. Util. Code §2889.5(a) (West 1999).

<sup>32/</sup> *Id.* at §2889.5(a)(3).

<sup>33/</sup> Telecommunications Division, Calif. Pub. Util. Comm'n, *Workshop and Third Party Compliance Survey Report and Staff Recommendations to the Assigned Commissioner on Unauthorized Transfer of Service and Billing*, R.97-08-001, I.97-08-002, pp. 43-44, dated June 30, 1998.

intraLATA toll carriers.<sup>34/</sup> In short, state legislators and regulators are concluding that verification — and TPV in particular — is an effective remedy to the problem of slamming.

Requiring TPV to remain independent of a third party administrator would allow the consumer benefits of TPV to continue even if the FCC directs the industry to incorporate additional functions for the third party administrator.

### **Conclusion**

For the reasons stated herein, Teltrust supports the use of third party verification to deter the unauthorized switching of customers' telephone carriers. Accordingly, Teltrust urges the Commission to adopt rules requiring the use of live-agent independent TPV to verify when consumers change their telecommunications providers or their telecommunications services. To ensure the integrity of the third party verification process, the Commission should set minimum standards for the TPV contact and should prohibit marketing on the part of third party verifiers. However, it would be impractical for the Commission to mandate content requirements for third party verification calls.

The Commission should permit third party verification entities to verify the removal of carrier freezes as well as the installation of freezes. Furthermore, subscribing to a carrier's services via the Internet should be covered by the same safeguards to prevent slamming as other

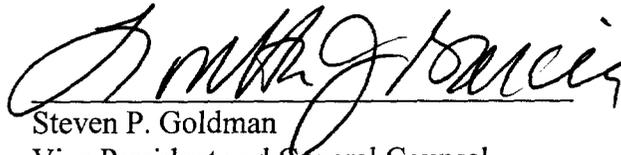
---

<sup>34/</sup> These states include Florida, Fla. Admin. Code. Ann. § 25-4.118 (TPV or a signed LOA); Massachusetts, Mass. Gen. Laws Ch. 93, §§ 108-113 (recorded TPV or a signed LOA); and Montana, Mont. Admin. R. § 38.5.3801 (TPV, signed LOA or electronic verification).

forms of carrier solicitation. Finally, the Commission should allow third party verification to continue to be a separate, independent function from a third party administrator, so that consumers may continue to enjoy the benefits of this effective means of confirmation.

Respectfully submitted,

**TELTRUST, INC.**



Steven P. Goldman  
Vice President and General Counsel  
6322 South 3000 East  
Salt Lake City, Utah 84121

Of Counsel:

Leonard J. Kennedy  
Loretta J. Garcia  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
(202) 776-2000

March 18, 1999