Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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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	)	
	)	CC Docket No. 94-129
Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers	)	

COMMENTS

OF AARP

March 18, 1999

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List A B C D E

AARP appreciates the opportunity to offer comment on issues raised in the Federal Communications Commission's (FCC) *Further Notice and Order* regarding policies concerning unauthorized changes of consumers' long distance carriers. We are pleased that the Commission has issued the Order, enacting strong measures that benefit consumers and provide strong deterrents to companies that continue to "slam" customers.

AARP has long believed that the key to reducing fraudulent activities, like slamming, is to eliminate the profit. The Order you have released should do just that. Additionally, it will impose more rigorous verification procedures, and broaden the scope of the rules to encompass all carriers. We support each of these steps.

Seeking additional comment on several issues not resolved in the Order, the Commission has issued a Notice of Proposed Rulemaking. AARP will be commenting to some degree on all eight of the items. These items are: (1) requiring unauthorized carriers to remit to authorized carriers certain amounts in addition to the amount paid by slammed subscribers; (2) requiring resellers to obtain their own carrier identification codes (CICs) to prevent confusion between resellers and their underlying facilities-based carriers; (3) modifying the independent third party verification method to ensure that this verification method will be effective in preventing slamming; (4) clarifying the verification requirements for carrier changes made using the Internet; (5) defining the term "subscriber" to determine which person or persons should be authorized to make changes in the selection of a carrier for a particular account; (6) requiring carriers to submit to the Commission reports on the number of slamming complaints received by such carriers to alert the Commission as soon as possible about carriers that practice slamming; (7) imposing a registration requirement to ensure that only qualified entities enter the telecommunications market; and, (8) implementing a third party administrator for execution of preferred carrier changes and preferred carrier freezes.

1. Recovery of Additional Amounts from Unauthorized Carriers

From a consumer's standpoint, one of the critical end results to any effort to derail slamming is that subscribers receive immediate credit on their billing statements upon notifying the billing agent that they have been slammed. The FCC has chosen to adopt rules that treat differently subscribers who discover an unauthorized change before they pay their bills and those subscribers who do not discover that they have been slammed until after they have paid their bills. However, we are pleased that in both scenarios, consumers receive a credit, without hassle.

Specifically, you are seeking comment on whether an authorized carrier should collect from the unauthorized carrier double the amount of charges paid by the subscriber during the first 30 days after the unauthorized change, when a subscriber has already paid the bill. While this issue may best be resolved between carriers, AARP believes that doubling the charges would strengthen disincentives for carriers to engage in slamming and provide extra incentive for authorized carriers to pursue their claims against unauthorized carriers. Thus, this measure would work toward taking the profit out of slamming.

2. Resellers and CICs

AARP submits that reselling has given consumers access to a wider variety of services and carriers in addition to reductions in the cost of some telecommunications services. However, as competition develops further, so does the need to ensure that consumers are receiving accurate and sufficient information about the assortment of telecommunications services and carriers in order to avoid consumer confusion. Confusion over carriers and the services they provide can negate competition because confused consumers cannot make informed choices. As a means to reduce confusion, AARP strongly recommends that the Commission adopt rules that require resellers to have individual CICs. By doing so, progress will be made in eliminating "soft slams" and toward promoting billing disclosure.

As we understand it, a "soft slam" occurs when a subscriber is changed, without authorization, to a carrier that uses the same CIC as his or her authorized carrier. This can occur in a number of ways, but in each case, the consumer is unaware that a slam has occurred. The soft slam is therefore particularly problematic because it bypasses the local exchange company (LEC) and enables a slamming reseller to bypass a subscriber's preferred carrier freeze protection. What makes it so difficult to detect is the fact the subscriber will still see the same interexchange carrier listed on his or her bill, despite the fact that a reseller is now providing that service. AARP concludes that individual CICs for resellers will make them distinctive and therefore perceptible on a consumer's billing statement.

Requiring carriers to have unique CICs will also promote disclosure on billing statements. In its comments on the Commission's Truth-in-Billing Rulemaking, AARP stressed the importance our members place on having full disclosure in their billing statements. We highlighted the need for consumers to know who is providing the telecommunication services that are billed. Requiring individual CICs for resellers is a logical step in that direction and we commend the Commission for proposing it.

3. Independent Third Party Verification

AARP agrees with the National Association of Attorneys General (NAAG) that independent third party verification should be separated completely from the sales transaction, so that a carrier would not be permitted to conduct a three-way call to connect the subscriber to the third party verifier. We share NAAG's concern that a verification call "initiated by the carrier is not truly independent because the subscriber would remain under the influence of the carrier's telemarketer during the verification."

Additionally, AARP asks the Commission to establish rules that require that a live operator be available to serve as a third party verifier. We understand that automated third party verification can be more economical to use than live verifiers, and some consumers may prefer automated systems. AARP argues however, that live verifiers are more effective than automated verifiers

because a live operator can answer questions asked by the subscriber, whereas an automated system relies on touch tone entries. We suggest, therefore, that the independent third party verification system be set up as an automated system with an option to speak to a live operator. Further, we recommend that the offer to speak to a live operator be made at the beginning of the recorded introduction to the system. A system designed as we propose would benefit consumers and carriers alike.

4. Carrier Changes Using the Internet

The Commission has requested comment on a wide range of Internet-related issues in this section. AARP recognizes that websites are being utilized more and more by our members, and while numerous issues could be addressed, we will restrict our comments today to concerns regarding electronic Letters of Authorization (LOA's). AARP understands that carriers are using the Internet to gain new subscribers and that it is a quick and efficient method of signing up new subscribers. We are concerned, however, that absent adequate consumer safeguards, instances of slamming and other forms of solicitation may increase. Clearly, the very ease with which a subscriber may change carriers using the Internet makes the Internet fertile ground for slamming. A variety of scenarios could be constructed that would facilitate the actual switch of a telecommunications provider without the knowing assent of the subscriber.

Because of our concerns about the enhanced ability to defraud over the Internet, AARP recommends that telecommunications provider changes made over the Internet become enforceable only after the provider has received a signed paper form. This would allow the consumer to use the websites to obtain information, to download a paper form or to request a paper form in the mail. Further, we concur with the Commission's belief that the electronic signature fails to identify the "signer" as the actual individual whose name has been "signed" to the Internet form. We also believe that the electronic signature fails to identify the "signer" as an individual who is actually authorized to make telecommunications decisions and thereby necessitates a written signature. Finally, as a way to address our Internet concerns, AARP proposes that the Commission conduct a study to review current marketing practices on the Internet and to make recommendations for alternative, more secure, methods of conducting telecommunications-related business through websites.

5. Definition of "Subscriber"

The Commission seeks comment on whether to expand the definition of a "subscriber." AARP understands the rationale for wanting to expand the definition to include persons outside of the "telephone line subscriber" as defined in Section 258 of the Telecommunications Act of 1996. We understand how allowing the named party on the bill to designate additional persons in the household to make telecommunications decisions could promote competition by allowing carriers to solicit more than one person in a household. We also realize that both spouses may appreciate having authority to make decisions regarding telecommunications service.

Nevertheless, AARP is concerned that adoption of such a proposal could lead to an increase in slamming. From a carrier perspective, how would the carrier know if the person who had authorized a carrier change were in fact authorized to order telecommunications services. More importantly, from the consumer perspective, we are concerned that a slamming carrier could simply submit changes requested by unauthorized persons and claim that it thought that those persons were authorized. AARP recommends defining a subscriber as the party named on the bill. Under such circumstances, there would be less margin for error and more efficient dispute resolutions. This approach would also preclude carriers from having to maintain lists of persons other than the named party who are authorized to make telecommunications decisions.

6. Submission of Reports by Carriers

AARP strongly suggests that the Commission require each carrier to submit periodically to the Commission a report on the number of complaints of unauthorized changes in telecommunications providers that have been submitted to the carrier by its subscribers. We supported an identical provision contained in Sen. McCain's (R-AZ) anti-slamming bill, S. 1618, in the last Congress. A reporting requirement would serve to alert the Commission as soon as possible about carriers that practice slamming, enabling the Commission to take action promptly. Consistent with our recommendation to the Senate last year, we recommend that these reports be filed on a quarterly basis.

7. Registration Requirement

AARP supports the Commission's interest in imposing a registration requirement on carriers who wish to provide interstate telecommunications service. This registration requirement will go a long way toward preventing entry into the telecommunications marketplace by entities that are either unqualified or that have the intent to commit fraud. Registration also enhances accountability and facilitates the ability of a subscriber to contact a carrier.

We concur with the Commission's recommendations regarding what information the registration should, at a minimum, contain. These include: the carrier's business name(s); the names and addresses of all officers and principals; verification that such officers and principals have no prior history of committing fraud; and verification of the financial viability of the carrier. We suggest that this requirement be imposed on all entities that offer telecommunications services and that a 24-hour customer service phone number be included as well.

Additionally, AARP supports the proposed expansion of the Commission's authority to revoke or suspend the operating authority of those carriers that fail to file a registration or that provide false or misleading information in their registration. Such authority is an important step to preempt telecommunications service providers, who have not registered, from moving from state to state to avoid license forfeiture or worse. Finally, AARP urges that a carrier have an affirmative duty to ascertain whether another carrier has filed a registration with the Commission prior to offering service to that carrier.

We believe that the consumer benefits of these proposals outweigh the burden on carriers of filing registrations and that the registration provision will protect consumers by ensuring that unqualified and unscrupulous carriers do not profit from the provision of telecommunications services.

8. Third Party Administrator for Preferred Carrier Changes and Preferred Carrier Freezes

AARP has serious reservations regarding the proposal to establish an independent third party administrator to administer carrier changes, verification, and preferred interexchange carrier change (PICC) freezes. AARP believes that PICC freezes are an important weapon for consumers to use against slamming. However, we are not persuaded that the adoption of an independent third party to administer this function will directly benefit consumers.

We question the need for this proposed new entity. The current arrangement that has the LECs administering the changes and freezes seems to be adequate. The proposed new structure would add an unnecessary layer to a seemingly efficient process. We also question the cost. At a time when consumers are displeased with the many fees and charges that currently appear on monthly billing statements, the prospect of adding another one for an unneeded service is distressing. We ask that the Commission not pursue this initiative further.

CONCLUSION

The Federal Communications Commission is to be commended for issuing its Anti-Slamming Order. We believe the Order will go a long way towards freeing consumers from this onerous practice. Additionally, AARP appreciates the opportunity to address proposals to further strengthen the slamming rules included in the Further Notice of Proposed Rulemaking portion of the Order. We are pleased with the direction the FCC has taken on this issue and we hope that many of the suggestions we have made in our comments will be adopted by the Commission.

If you have any questions, please feel free to contact Jeff Kramer of the Federal Affairs staff, at 202/434-3800.

Sincerely,

Martin A. Corry
Director
Federal Affairs

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Certificate of Service

I, Jeffrey A. Kramer, hereby certify that on this eighteenth day of March, 1999, copies of the foregoing Comments of the AARP were served by hand or by first-class, United States mail, postage prepaid, upon each of the following:

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