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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

July 9, 1999

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Ms. Magalie R. Salas
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Federal Communications Commission
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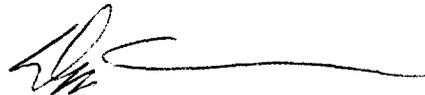
**Re: In the Matter of Truth-in-Billing and Billing Format, Further Notice of
Proposed Rulemaking, CC Docket No. 98-170**

Dear Ms. Salas:

Enclosed herewith for filing are the original and four (4) copies of MCI WorldCom's Comments regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI WorldCom Comments furnished for such purpose and remit same to the bearer.

Sincerely yours,



Don Sussman

Enclosure
DHS

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

JUL 9 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Truth-in-Billing and Billing Format)

CC Docket No. 98-170

Further Notice of Proposed Rulemaking)

MCI WORLDCOM, INC. COMMENTS

Don Sussman
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July 9, 1999

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Summary

When new entrants such as MCI WorldCom began to offer long distance service in the 1970s and early 1980s, the Commission declared this group of carriers nondominant and declined to exercise the full scope of regulatory jurisdiction over them. The doctrine of nondominance was a regulatory recognition that these new players could not exercise market power over any portion of the long distance market, and that regulation of their practices and prices was not necessary.

Given the strong competitive forces that exist in the long distance industry today, most carriers devote constant attention to billing and other customer communications. As the Commission correctly noted, "it is in the interest of IXC's and other carriers to inform fully their end user customers of the nature and amount of all charges they assess, including any separate line item charges they choose to impose for universal service and access, in order to preserve their customers' belief in the integrity of carrier billing."

The Commission's requirement that carriers adopt standardized labels for charges related to access to networks, universal service, and number portability will not promote its goal of protecting consumers and increasing customers' ability to comparison shop. Quite likely, it will lead to less accurate charge descriptions, and result in an apples-to-oranges comparison of line charges among customers. Nevertheless, if the Commission continues down the road of requiring standardize labels then it should adopt the labels "National Access Fee," "PICC" or "Carrier Access Charge," to recover access-related costs, "Federal Universal Service Fee" or "Local Service Subsidy" to recover costs related to universal service, and "Number Portability" to recover costs related to number portability. Such labels are clear, concise, informative, and

competitively neutral. Additionally, the Commission must allow carriers sufficient time (90 days) to implement any required changes in labeling, and such changes should only be required once all court appeals have been exhausted to prevent unnecessary customer confusion that possible subsequent changes could create.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:

Truth-in-Billing and Billing Format)	
)	CC Docket No. 98-170
Further Notice of Proposed Rulemaking)	

MCI WORLDCOM, INC. COMMENTS

I. Introduction

In section II(C)(2)(c) of its Truth-in-Billing Order, the Commission adopted the guideline that carriers must use standardized labels to refer to certain charges relating to federal regulatory action.¹ The Commission determined in that order that the names associated with these charges as well as accompanying descriptions may convince consumers that all of these fees are federally mandated, and that a lack of consistency in the way such charges are labeled by carriers makes it difficult for consumers accurately to compare the price of telecommunications services offered by competing carriers.² In the Further Notice, the Commission seeks comment on the specific labels that carriers should adopt to describe charges related to interexchange carriers' costs of access to the networks of local exchange carriers, line items seeking to recover universal service

¹ In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket no. 98-170, released May 11, 1999, at ¶49. (Truth-In-Billing Order or Further Notice).

² Id. at ¶53

contributions from carriers' customers, and charges relating to local number portability.³ The Commission tentatively concludes that carriers should label such charges "Long Distance Access," "Federal Universal Service," and "Number Portability," respectively.

Pursuant to the timetable set in the Commission's Further Notice, MCI WorldCom Inc. (MCI WorldCom) submits its comments in the aboved-captioned proceeding.

II. Competition Is the Solution

There can be no question that the long distance industry is vibrantly competitive. Literally hundreds of long distance companies compete in the interexchange market,⁴ and tens of millions of customers change their long distance provider annually.⁵ Moreover, as the Commission has found, not even AT&T, the largest IXC, exercises market power in the interexchange market.⁶

Given the strong competitive forces that exist in the long distance industry today, most carriers devote constant attention to billing and other customer communications. As the Commission correctly noted, "it is in the interest of IXCs and other carriers to inform fully their end user customers of the nature and amount of all charges they assess, including any separate

³ Further Notice at ¶71.

⁴ There are more than 600 carriers in the United States that provide long distance services. In the Matter of Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc., Memorandum Opinion and Order, CC Docket No. 97-211, released September 14, 1998, at ¶32.

⁵ Last year over 26 million customers were reported to have changed long distance service providers. The Yankee Group's 1998 Technologically Advanced Survey (TAS), September 1998.

⁶ In the Matter of Motion of AT&T Corp. To Be Reclassified as Nondominant Carrier, Order, 11 FCC Rcd 3271, 1995.

line item charges they choose to impose for universal service and access, in order to preserve their customers' belief in the integrity of carrier billing."⁷

As MCI WorldCom demonstrated in its comments filed in the instant proceeding on November 13, 1998, MCI WorldCom fully appreciates that long distance customers have a large selection of service providers from which to choose.⁸ MCI WorldCom also understands that billing and carrier-customer communications are a critical ingredient of the service a customer receives. The relationship between the carrier and the end user is often evaluated on the carrier's ability to communicate clearly with the customer, through billing, account teams, marketing messages, advertisements, and customer service representatives. In a competitive market, such as the interexchange market, misleading billing or labeling of charges will not be tolerated by a customer, and will not permit a carrier to grow its customer or revenue base.

The highly competitive environment in which MCI WorldCom operates requires us to provide clear, truthful billing and customer communications if we are to attract and retain customers. Customers who don't like a carrier's billing, rates, services, etc., can and do simply choose another carrier. There is no need for the Commission to interfere with the strong competitive forces that exist in today's interexchange market. Competition in the long distance market has resulted in lower prices for an increasing array of services. The incentive to attract and retain customers will continually drive interexchange carriers to communicate effectively,

⁷In the Matter of Truth-in-Billing and Billing Format, Notice of Proposed Rulemaking, CC Docket No. 98-170, 13 FCC Rcd 18180 (1998) at ¶9.(Notice)

⁸ In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170, MCI WorldCom, Inc. Comments, filed November 13, 1998.

and clearly with customers. If confusion surrounds labels of certain charges or line items, competitive forces will move carriers to make necessary modifications. Regulatory-mandated labels of interexchange carrier charges is not necessary to protect consumers. Competition in the long distance industry protects the consumer. Competition, not increased regulation, is the best solution.⁹

III. One Size Does Not Fit All in a Competitive Market

In its Truth-in-Billing Order, the Commission repeatedly recognizes that flexibility, in the manner in which carriers communicate with their customers and compete with other carriers, is a necessary ingredient in the development of strong competitive markets. For example, the Commission's decision "to adopt broad, binding principles, rather than detailed, comprehensive rules, reflects a recognition that there are typically many ways to convey important information to consumers in a clear and accurate manner."¹⁰ Similarly, "[i]n adopting a provider-based guideline and affording wide latitude to determine the most efficient way to convey the service provider information, [the Commission has] balanced consumers' need for clear, logical, and easily understood charges against concerns that rigid formatting and disclosure requirements

⁹ Unfortunately, there are a few carriers who are interested in the short term benefits to be gained by misleading or taking advantage of customers in a purposeful way. These are the minority of carriers who tend to generate the most significant complaints. For these carriers, the Commission's enforcement powers should be utilized to stop activity that results in customer abuses.

¹⁰Truth-in-Billing Order at ¶10.

would inhibit innovation and greatly increase carrier costs.”¹¹ Additionally, the Commission specifically declined to take a prescriptive approach as to how carriers may recover their costs because the Commission prefers “to afford carriers the freedom to respond to consumer market forces individually, and consider whether to include [line item] charges as part of the their rates, or to list charges in separate line items.”¹²

Yet paradoxically, the Commission concludes in that same order that carriers must use standardized labels to refer to certain charges relating to federal regulatory action.¹³ The Commission’s reasoning is that standardized labeling of certain line items will facilitate comparison shopping and reduce customer confusion. The problem is that standardized labeling of dissimilar charges will actually make it more difficult for consumers to comparison shop, and would increase customer confusion. Carriers structure their rates differently, and therefore, recover their costs differently.

The Commission’s decision to require standardized labels is at odds with its decision (in the same order) to afford carriers the flexibility to recover their costs and communicate with their customers in the most efficient, and competitive, fashion. Carriers should be required to communicate clearly, in a truthful manner, with customers, as is required by the Commission’s Truth-in-Billing guidelines. However, carriers need the flexibility to label their charges in a way that best describes that particular carrier’s rates and rate structure, to that particular carrier’s

¹¹ *Id.* at ¶36.

¹² *Id.* at ¶53

¹³ *Id.* at ¶49.

customer base. A one-size fits all policy is not applicable to a vibrantly competitive marketplace, such as the interexchange market, and will result in increased customer confusion and less than accurate descriptions on customer invoices.

Moreover, even if the Commission's concern -- that customers would not be protected sufficiently by competition alone -- had merit, standardized labeling of line items is not necessary in light of the Commission's other billing description guidelines delineated in the Truth-in-Billing Order. The Commission's determination that "descriptions that convey ambiguous or vague information....would not conform to [its truth-in-billing] guidelines," adequately protects customers from misleading or vague line item labels. MCI WorldCom agrees with the Commission that services included on the telephone bill should be accompanied by a brief, clear, plain language description of the service rendered, and that the description of the charge should be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received.¹⁴

IV. No Rational Relationship Exists Between Standardized Labeling of Line Charges And The Commission's Stated Goal

In its Truth-in-Billing Order, the Commission requires carriers to use standardized labels to refer to certain charges relating to federal regulatory action to facilitate comparison shopping of telecommunications services among customers. No rational relationship exists between standardized labeling of line charges and the Commission's stated goal. First, as explained

¹⁴ Id. at ¶38

earlier, standardized labels for charges that do not reflect the same rate structure or cost recovery mechanism would not assist customers in rational comparison shopping. Second, the Commission erroneously concludes that consumers evaluate, or should evaluate, the competitiveness of a telephone carrier's services based on a comparison of only one part of the bills -- line charges.

Consumer organizations and regulators for years have taken the position that the only meaningful comparison to be made is the customer's total bill based on that particular customer's calling pattern.¹⁵ For example, the Telecommunications Research and Action Center (TRAC) has repeatedly urged consumers to comparison shop among telecommunications carriers to obtain the best value for that particular customer's needs. TRAC urges consumers to ask "How much is it going to cost me at the end of the month for long distance service with this company and the plan that I use?"¹⁶ The Consumer Information Center of the U.S. General Services Administration urges consumers to be "savvy shoppers" by "enrolling in a calling plan that fits your habits," and suggests that customers consider the following: how many calls are made per month, the length of the calls, the time of day calls are typically made, where the calls are placed, the rate per

¹⁵Commissioner Ness has urged consumers to keep their eye on the "bottom line" of the bill, rather than on individual line charges: My recommendation is to keep your eyes on the bottom line of the bill. Don't get too upset by a single line-item if the overall bill is the same or smaller than it was. On the whole, the vast majority of consumers will benefit from the changes that are currently under way. Letter from Commissioner Ness addressing Telephone rates and Line Charges, FCC Web Cite "Ness Forum."

¹⁶ "Consumer Group Study Documents Rising Costs for Long Distance Companies," TRAC News and Alerts, May 6, 1999.

minute or per month, and any monthly fee or spending limit.¹⁷ It is the total bill at the end of the month that is important to customers when comparison shopping, not the charge for particular components of the bill.

MCI WorldCom agrees with Chairman Kennard's statement that "[i]f you don't like your long distance service, shop around."¹⁸ Customers do not typically determine which automobile to purchase based on one particular charge (e.g., the cost of undercoating). Customers make their decision to buy a particular car based on the total cost of the car. Similarly, customers make, and should make, their telecommunications purchasing decisions based on the total monthly cost of service. If the Commission is going to require expensive and cumbersome labeling changes, it has the legal obligation to demonstrate that its proposed regulation is rationally related to its goal of fostering comparison shopping. This it cannot do. The Commission should abandon its plan to adopt standardized labels.

V. Standardized Labels Must Be Competitively Neutral and Implementable

As a result of the Commission's 1997 Access Charge Reform Order, the cost structure of interexchange carriers changed significantly.¹⁹ Interexchange carriers incur a monthly cost (through the presubscribed interexchange carrier charge or PICC) for each presubscribed customer regardless of whether that customer made any long distance calls. Additionally, as a

¹⁷"Making the Best Call: How to Save Money and Avoid Problems with Your Telephone Service," Consumer Information Center of the U.S. General Services Administration.

¹⁸ Press Statement of FCC Chairman Kennard, released April 6, 1999.

¹⁹ Access Charge Reform Order, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd 15982 (1997) (Access Charge Reform Order).

result of universal service decisions made since the Telecommunications Act of 1996, interexchange carriers are required to pay increasing amounts of universal service contributions, on behalf of their own obligations and those of the ILECs, to fund universal service goals defined by policy makers. As a result, many interexchange carriers, such as MCI WorldCom, modified their rate structure to recover more efficiently their access-related costs and universal service contribution requirements through separate line charges. MCI WorldCom labels such charges the "National Access Fee" or "PICC" and the Federal Universal Service Fee" or Local Service Subsidy," respectively.

Since MCI WorldCom modified its rate structure to reflect its changed cost structure in January of 1998, MCI WorldCom has spent millions of dollars training sales and customer service representatives and educating its customer base about the meaning and the benefits of the changes and the new line charges. Additionally, MCI WorldCom, like many other interexchange carriers, has spent millions of dollars updating its billing systems and developing invoice messages and labels to support a smooth transition. The Commission now wants interexchange carriers and long distance customers to relive the past year. By unnecessarily introducing new labels for charges that customers now understand, interexchange carriers once again will be required to modify their invoices and billing systems, and again, educate their customer base as to the meaning of the new labels.

If the Commission nevertheless requires interexchange carriers to adopt standardize labels for these charges, it is imperative that the labels be clear, concise, and competitively neutral. The Commission has proposed that the line item charge related to interexchange carriers' costs of access to the networks of local exchange carriers be labeled "Long Distance Access."

This label is neither meaningful nor competitively neutral. The label "Long Distance Access" could lead the customer to believe that the fee pays for use of the long distance carrier's network, when in fact, the fee is collected by the long distance carrier on behalf of the local exchange carrier. Also, the Commission-proposed label implies that the money paid by the customer is going to the long distance carrier's bottom line. Again, this is incorrect; long distance carriers are collecting this revenue on behalf of the local exchange carriers. If access fees were brought to forward-looking economic cost, such fees would, except in a very limited number of cases, generally disappear. A more accurate and competitively neutral label would be the "National Access Fee," PICC, or the "Carrier Access Charge."

The Commission also proposes that carriers label the charge aimed at recovering universal service contributions the "Federal Universal Service." MCI WorldCom recovers its universal service contributions through a charge labeled "Federal Universal Service Fee" or "Local Service Subsidy." If the Commission requires use of standard labels to recover costs related to universal service, it should adopt either of these labels because they both convey an accurate description and purpose of the charge to the customer in a competitively neutral manner. Similarly, if the Commission requires use of standard labels to recover costs related to number portability, MCI WorldCom believes that the label "Number Portability" is clear, and accurately conveys the purpose and description of the charge in a competitively neutral manner.

While MCI WorldCom opposes the use of standardize labels for these charges for the many reasons outline above, if the Commission requires carriers to adopt new line charge labels, it should allow carriers 90 days to implement the changes from the time its rules become

finalized.²⁰ Given the likelihood that the Commission, and possibly the court, will be asked to review certain aspects of the Commission's Truth-in-Billing rules (including the requirement to adopt standardized labels), carriers should not be required to change their line item labels, and confuse their customer base, if it is likely that the labels could be modified in the future. From the time the Commission's rules are finalized, carriers will need to modify their billing systems, train their sales and customer service representatives, and educate their customers about the new line labels. At a minimum, carriers should be provided 90 days to accomplish this expensive feat.

VI. Conclusion

When new entrants such as MCI WorldCom began to offer long distance service in the 1970s and early 1980s, the Commission declared this group of carriers nondominant and declined to exercise the full scope of regulatory jurisdiction over them.²¹ The doctrine of nondominance was a regulatory recognition that these new players could not exercise market

²⁰ Given that the vast majority of interexchange carriers rely on invoice ready billing from the ILECs, if the Commission requires standardized label, LECs must be required to comply with implementation timelines as well.

²¹ Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Therefor, CC Docket No. 79-252, Notice of Inquiry and Proposed Rulemaking (Notice), 77 FCC 2d 308 (1979); First Report and Order (First Report), 85 FCC 2d 1 (1980); Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981); Second Further Notice of Proposed Rulemaking, 47 Fed. Reg. 17308 (1982); Second Report and Order (Second Report), 91 FCC 2d 59 (1982), recon. denied, 93 FCC 2d 54 (1983); Third Report and Order (Third Report), 48 Fed. Reg. 46791 (1983); Fourth Report and Order (Fourth Report), 95 FCC 2d 554 (1983), vacated, AT&T v. FCC, 978 F.2d 727 (D.C. Cir. 1992), cert. denied, MCI Telecommunications Corp. v. AT&T, 113 S. Ct. 3020 (1993); Fourth Further Notice of Proposed Rulemaking, 96 FCC 2d 1191 (1984); Fifth Report and Order (Fifth Report), 98 FCC 2d 1191 (1984); Sixth Report and Order (Sixth Report), 99 FCC 2d 1020 (1985), vacated sub nom., MCI Telecommunications Corp. v FCC, 765 F.2d 1186 (D.C. Cir. 1985).

power over any portion of the long distance market, and that regulation of their practices and prices was not necessary. These carriers were, however, subject to the Commission's complaint processes, and their conduct, if challenged, was measured against the statutory requirements of Title II of the Communications Act as opposed to many of the specific Commission-mandated rules reserved for dominant carriers. It is an understatement to say that in the two decades since that time, the topic of interexchange carrier bills -- their clarity or any confusion they engender on the part of customers -- has not emerged as a leading issue in the enforcement arena.²²

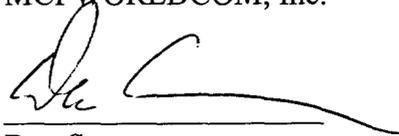
The Commission's requirement that carriers adopt standardized labels for charges related to access to networks, universal service, and number portability will not promote its goal of protecting consumers and increasing customers' ability to comparison shop. Quite likely, it will lead to less accurate charge descriptions, and result in an apples-to-oranges comparison of line charges among customers.

Nevertheless, if the Commission continues down the road of requiring standardize labels then it should adopt the labels "National Access Fee," "PICC" or "Carrier Access Charge," to recover access-related costs, "Federal Universal Service Fee" or "Local Service Subsidy" to recover costs related to universal service, and "Number Portability" to recover costs related to number portability. Such labels are clear, concise, informative, and competitively neutral. Additionally, the Commission must allow carriers sufficient time (90 days) to implement any

²² One of the few lines of cases that has developed over the years is the Commission's regulation of the practice of backbilling, in which the Commission has made pronouncements on the reasonableness of a carrier sending out a bill for a past period. See In the Matter of the People's Network Incorporated, Complainant, v. American Telephone and Telegraph Company, Defendant., File No. E-92-99, 12 FCC Rcd 21081, April 10, 1997.

required changes in labeling, and such changes should only be require once all court appeals have been exhausted to prevent unnecessary customer confusion that possible subsequent changes could create.

Respectfully submitted,
MCI WORLDCOM, Inc.

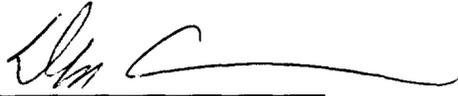
A handwritten signature in black ink, appearing to read 'Don Sussman', written over a horizontal line.

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July 9, 1999

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on July 9, 1999.

A handwritten signature in black ink, appearing to read 'Don Sussman', followed by a long horizontal flourish line.

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CERTIFICATE OF SERVICE

I, Vivian Lee do hereby certify that copies of the foregoing MCIWorldCom Comments were sent via first class mail, postage paid, to the following on this 9th day of July 1999.

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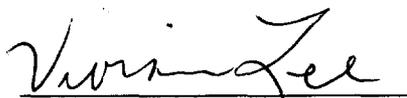
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