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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Establishment of Rules Governing Procedures)
to be Followed When Informal Complaints are) **CI Docket No. 02-32**
Filed by Consumers Against Entities Regulated)
by the Commission)

**COMMENTS OF THE OFFICE OF THE PEOPLE’S COUNSEL
FOR THE DISTRICT OF COLUMBIA**

I. INTRODUCTION

The Office of the People’s Counsel for the District of Columbia (“OPC-DC” or “Office”), in furtherance of its mandate as the statutory representative of District of Columbia ratepayers in utility proceedings,¹ hereby respectfully submits its Comments pursuant to the Federal Communications Commission’s (“FCC” or “Commission”) Memorandum Opinion and Order and Notice of Proposed Rulemaking (“NPRM”) issued February 28, 2002.

On February 28, 2002, the FCC released the above-captioned NPRM seeking comments on its proposal to streamline and establish a consistent informal consumer complaint process for all services regulated by the Commission. The FCC proposes to pattern these new processes after the common carrier informal complaint procedures found in Sections 1.717-1.718 of the FCC rules. The FCC also seeks comment on whether it should modify its existing common carrier informal complaint rules.

¹ D.C. CODE ANN. § 34-804(d) (2001).

A. SUMMARY OF OPC'S POSITION

OPC-DC commends the FCC for recognizing the need to address this important public issue. Further OPC-DC generally supports the FCC's proposals set forth in its NPRM as advancing the public interest. As the telecommunications industry continues its evolution to a more competitive market it becomes critical that consumer interests, particularly the interests and rights of residential consumers are protected. OPC-DC submits that it is essential that both the FCC and the carrier subject of a complaint respond to complaints in a timely manner to bolster consumer confidence in the resolution process. Second, in an environment where carriers offer a multitude of communication services and products, it is imperative that the FCC establish a consistent and consumer-friendly informal complaint process to minimize customer confusion in an ever-changing communications market.

Specifically, OPC-DC recommends the FCC:

- Provide consumers with a single point of contact at the FCC;
- Assign an identifying file number for carrier subject of the consumer complaint;
- Require carriers subject of a consumer complaint to respond within a 20 day period;
- Require the carrier contact information to be placed in a conspicuous location on all publicly disseminated materials;
- Ensure that personal consumer information, including names, addresses and phone are privacy protected and not made publicly available.

II. BACKGROUND

The Office of the People's Counsel is acting under authority granted by Section 34-804, *et seq.*, of the District of Columbia Code to represent the people of the District of Columbia in state

and federal proceedings that involve the interests of users of the products and services furnished by public utilities under the jurisdiction of the Public Service Commission.² The Office's interest in this proceeding is to ensure the development of responsive and effective complaint resolution process at the federal level that will benefit D.C. telecommunications consumers and otherwise facilitate a vigorous, robust and effective communications market.

OPC-DC has an extremely proactive Community Outreach and Education Division. In addition to handling individual consumer complaints, the division regularly interacts with community leaders, civic associations, and other community groups throughout the District of Columbia. These meetings provide OPC-DC an opportunity to hear directly from consumers their concerns and the service issues they are encountering. For example, OPC-DC has learned through consumer inquiries and community outreach activities that many District consumers, in particular senior citizens, are concerned about the seemingly "black hole" into which their consumer complaints fall at the FCC. Consumers complain that they are routed to various people when they lodge a complaint. Apparently, consumers seldom have direct access to a single point of contact at the FCC to discuss their complaint.

OPC-DC has initiated a personal and direct relationship with staff members of the FCC's Consumer Information Bureau ("CIB") in efforts to resolve consumer complaints, in particular cramming and slamming issues. Through this relationship OPC-DC is able to assist consumers in resolving their complaints efficiently and in an expeditious manner. For example, consumers often call OPC-DC indicating they have been "slammed" by a carrier. In most cases, OPC-DC will provide the consumer with FCC materials on the complaint process and refer the consumer

² D.C. CODE ANN. § 34-804 (2001).

to the FCC. In more serious cases, OPC will mediate discussions between the consumer, carrier and an FCC representative in efforts to resolve a complaint in a timely manner. OPC-DC submits that a process should be developed to ensure consumers can readily access a single point of contact during the intake process and in follow-up telephone conversations until their complaint is resolved by the subject carrier.

III. DISCUSSION

In response to the Commission's NPRM, OPC-DC submits the following comments to be considered in the development of a unified, streamlined informal consumer complaint procedure for all services regulated by the Commission.

A. OPC-DC Supports the Establishment of a Single-Point Contact at the FCC.

OPC-DC submits that it is in the public interest to provide consumers with an initial single point of contact at the FCC to deal with their complaints concerning all of the entities regulated by the Commission. Generally, the Office encourages consumers to first contact the service provider before filing a complaint with the FCC about regulated products and services.

However, the Office strongly agrees that contacting the carrier first should not be a prerequisite before the consumer can file an informal complaint with the FCC. In most instances, consumers call OPC-DC after they have not been successful in locating or resolving their complaint with the service provider. OPC-DC either refers a consumer to the FCC for mediation or contacts the FCC on behalf of the consumer. More often than not, consumers often complain that they are routed and re-routed to several FCC call centers in their efforts to resolve one complaint. As a result, consumers repeatedly restate their complaint to several customer representatives often becoming increasingly frustrated in the process and abandoning their complaint against the

carrier without resolution. A single point of contact will help to reduce customer frustration and facilitate a timely resolution.

B. The FCC should Create Identifying File Numbers for All Consumer Complaints

C. Consumers have also voiced concern about the slow response time from the FCC, if they receive a response at all. Their complaints seemingly get “lost” in the system. To close this seemingly “black hole”, OPC-DC recommends that consumers be given a “File or Case Number” to enable consumers to track the status of their complaint throughout the complaint process until it has been resolved. The consumer complaint file number should be analogous to a file number assigned to a case pending before a court or a claim number given to an insurance claimant. Regardless of the intake method of the consumer’s complaint, a consumer should be able to provide either an FCC representative or respective carrier the file number and be given an up-to-date status report on his complaint. The file number should follow the complaint. A consumer’s complaint should be assigned one file number whether that complaint was filed with the FCC by telephone, electronic mail, fax, or postal mail. This number will ensure that all documents and conversations referencing the consumer’s complaint are properly recorded and can be recalled upon inquiry by any FCC customer service representative. The FCC and Companies Should Respond To An Informal Complaint Within a Prescribed Period After Receipt of Complaint.

The FCC seeks comment on whether it should set a specific period within which a company must respond to notification of an informal consumer complaint.³ The Office submits that companies should be required to respond to complaint within 20 days from the receipt of a Notice of a Complaint. There is already a considerable amount of lag time between when the consumer contacts the FCC and the FCC forwards the complaint to the respective service provider. Giving a service provider a 30-day grace period, with the option of a 15 day extension, further exacerbates this lag time. Requiring a service provider to respond within 20 days will reduce the lag time and expedite the resolution process.

As a corollary, OPC-DC also recommends that the FCC assign a high priority code to complaints on service subject to disconnect or credit-reporting action. Company policy often

3. NPRM ¶ 14.

allows a local service provider to disconnect a consumer's local exchange service due to non-payment of the long-distance portion of the bill. If a consumer has difficulty contacting either the carrier or FCC in resolving a billing dispute with his long-distance service provider, his local exchange service may be in jeopardy and subject to disconnection. OPC submits that a consumer complaint filed with the FCC should "stay" any pending disconnect orders or, at a minimum, require the service provider to segregate the disputed amount from the total bill allowing the consumer to make payments on the balance due until the complaint is resolved.

Equally important, OPC-DC respectfully recommends that the FCC respond to consumers within a timely fashion, i.e. 10 days. As stated above, consumers often complain that the FCC seldom confirms whether it has received the consumer's complaint and, therefore, consumers are uncertain if their complaint has been received or is being address by the appropriate bureau. In addition, the FCC should correspond with the consumer in the manner in which the complaint was sent, for example, if a consumer complaint is sent by electronic mail, the FCC should respond fairly quickly by electronic mail.

D. The FCC Should Ensure that the Informal Complaint Process is Consumer-Friendly and Carrier Contact Information is Prominently Displayed

The FCC also seeks to make the informal complaint process more consumer-friendly and limit the burdens placed on complaining consumers.⁴ In an age where mergers and bankruptcy filings are prevalent in the telecommunications industry, it becomes increasingly important that consumers experience minimal frustration in attempting to resolve complaints and obtaining accurate company contact information. OPC supports the FCC's proposal requiring the carrier

4 NPRM ¶ 12.

contact information be conspicuous. The carrier contact information should not only be conspicuous in location on publicly disseminated materials, but also in font size on carriers' bills to ease the consumer's reading of the information. A carrier should be required to notify the FCC within 30 days of any change in contact information to ensure the FCC's database remains up-to-date and minimizes the retention of stale data.

E. Additionally, the Office recommends modifying the existing interactive voice response system ("IVR") by providing consumers the option to access an FCC complaint specialist within the first five (5) menu choices in the current IVR system. It is especially frustrating to a consumer if he or she must listen to 10 inapplicable menu choices before he can access a live operator for assistance. The Content Of Informal Consumer Complaints Should Be Subject to Privacy Protections.

In the NPRM, the FCC seeks comment on its proposal to amend the rule provisions that designate informal complaints as records routinely available for public inspection.⁵

⁵ NPRM ¶ 24.

The FCC seeks to amend that portion of its rules to comply with the Privacy Act because informal complaints include personal information relating to consumers, i.e., the consumer's name, address, and phone number.⁶

Applying privacy protection to informal complaints will ensure consumers their personal information will remain confidential and proprietary and will not be sold to other business entities, for example telemarketing companies. Many consumers voice concern, in particular non-English speaking persons, about the possibility of unauthorized persons or business entities obtaining access to their personal information. The possibility of a consumer's personal information being disclosed to other government agencies often prevents a consumer from filing a complaint with the appropriate agency. To that end, OPC-DC does not support having records open to public inspection without the complainant's permission. OPC-DC supports a two-tier level of confidentiality to protect consumer privacy interests. The first level would protect privacy by redacting all personal, identifying information from a complaint before the FCC would release the complaint. OPC-DC supports the FCC's proposal to make this level the default level of privacy protection. The second level would make all information in the informal complaint confidential. This level of protection should be available to consumers upon request.

The two tiers of protection should not limit a complainant or responding carrier from having access to the information in their efforts to resolve the complaint. Additionally, OPC-DC submits that state consumer advocates and local governmental offices should have access to consumer complaint information. State consumer advocates often mediate telecommunications disputes between the consumer and the service provider. It is important that authorized persons

6 Id.

or governmental entities who intervene on behalf of consumers have access to accurate and up-to-date information during the negotiation process. Having access to FCC consumer complaint data will enable state agencies detect abusive business practices on the local level and, if necessary initiate an investigation with the state commission.

IV. CONCLUSION

_____ For the foregoing reasons, the Office respectfully requests the Commission consider its Comments in the revision of its informal consumer complaint procedures concerning communications service providers.

Respectfully submitted,

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Dated: May 16, 2002