September 11, 2009

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: *Consumer Information and Disclosure,* CG Docket No. 09-158; *Truth-in-Billing and Billing Format,* CC Docket No. 98-170; *IP-Enabled Services,* WC Docket No. 04-36

I would like to commend the FCC for opening this inquiry into consumer protection. Promoting consumer interests is one of the most important priorities that Congress has given the Commission. I would like to remind the commission of other proceeding that directly impact consumers well being is waiting from the FCC for action. FCC docket 07-51 have enough evidence on lack of disclosure and how the some companies are monopolizing markets with the incorrect idea that bulk billing fees collected by homeowners association are great for consumers. On June 2008, I met with some FCC representatives to discuss how bulk service agreements limit the consumer to make decisions about the type of services consumers prefer in their home. My comments are recorded on FCC docket 07-51
http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6520030829

I provided the commission information regarding the unfair business practices of our telecommunications providers, their market manipulation and monopolization tactics, and the clear conflict of interests that exists through the management of contracts that obtain their services. Additionally, we discussed how bulk billing arrangements have enabled these providers to continue these practices unabated. It my belief that these types of agreements are attempts to bypass current telecommunications and antitrust laws[1]. Further, these corporations provide telecommunication services to a large number of customers using monopolies with prevailing or new service providers, under unregulated conditions, and with disregard to consumers' rights[2]. The only effective

[1] U.S.C § 2, Monopolizing trade a felony; penalty
http://www.law.cornell.edu/uscode/15/usc_sec_15_00000002----000-.html
[2] 47 U.S.C. 151, Communication Act of 1934
http://www.law.cornell.edu/uscode/47/usc_sec_47_00000151----000-.html

means to improve our arrangements is through open competition markets with consumer protection.

Summary of the situation Lexington Community in Virginia Beach

Currently, we have a *Communications Agreement,* between our Master Homeowner Association and a "Special Purpose Entity, Lexington Infrastructure Management "(LIM)". The developer owned LIM was created to provide communication services to our community. This contract is for a term of up to 75 years. The LIM, in turn, entered into a contract with COX Communications for delivery of the actual services. This contract was placed into effect before the community was built and during the period of declarant control. Additionally, this contract binds all homeowners to pay $146.00 per month for Communications Services as part of our homeowner's assessments.

Although, homeowners have the ability to contract directly to other vendors for services, due to the bulk services agreements in our HOA managed contract we still are required to pay the master homeowner association fee*.* The contract requires each homeowner to pay the communication assessments regardless of homeowners intend to use the Basic Services. This contract creates a financial burden to the consumer as with the current economy some owners had lost jobs and are still responsible for payment or they could loose their home due to treat of a lien against the property.

There are no incentives for other providers to invest in a community locked for 75 years, which limits our alternatives. Additionally, all prospective customers are bound to Cox Communications, and most families cannot afford or simply would not pay twice for similar services. Under these bulk services contracts the consumer ability of changing, manage and cancel services is non-existent. We will never be able to chose among providers or have at least a bill, detailing the services we pay. We have never received an itemized cable, internet, or phone bill from our association we just write a check to the Lexington Owner association. As a paying customer, we don't know the itemized value of telephone, internet or cable. We have no information on the level of service and contract clauses that control the services that we pay every month.

The way these contracts are placed take advantage of consumers. In our case, critical documents on the disclosure were improperly referenced and contract procedures were not followed. These agreements are one sided and the developer is using their upper hand to tie owners to a roughly perpetual agreement. Further

concerns addressed to the developer, homeowner association and COX remains mostly unanswered. The developer has ignored all ours requests, and continues to enforce a contract that we didn't sign.

At this time, our only choice is to seek resolution within our court system. However, we tried to hire an attorney who delivered an estimate of $50,000.00 to get out of a contract that we didn't signed or agreed to in the first place. We expect with this new procedure the commission take a very active role in favor of the American consumer by nullifying contracts between homeowners associations and providers on behalf of homeowners, thus enabling us "the consumer" to seek competitive services.

Need for regulation

The Federal Communication Commission (FCC) needs to intervene to protect the citizens of the United States, especially those citizens whose states do not have laws to prevent these types of agreements. These agreements take away the consumer's ability to select the level of service of choice in their private Multi Dwelling Units. The Federal Communications Commission has the responsibility to protect the interest of consumers seeking access to communication networks.

Rights of the American People

We need to ask if these bulk services agreements violate the First Amendment of the United States Constitution[3]. Freedom of speech or freedom of expression is the right not confined to verbal speech but is understood to protect any act of *seeking, receiving* and imparting *information* or ideas, *regardless of the medium used*. Freedom of speech is protected in the First Amendment of the Bill of Rights and is guaranteed to all Americans. With a bulk service agreements people living in MDU don't have the opportunity to select the information we want to receive by any medium we want to use. If we want the freedom of speech given by the First Amendment we will have to pay twice for telecommunication services. This creates an impediment for citizens to seek for these services. We should be able to decide the level of service that we desire and not what is imposed by someone else. Just like consumers are free to choose the community they live in, consumers should be free on their private dwelling to enjoy the services they like without intrusive third party contracts.

[3] Constitution of the United States of America, Bill of Rights
http://www.law.cornell.edu/constitution/constitution.table.html#amendments

Bulk services agreements could be discriminatory to disable citizens. These citizens need special devices, and some of them are in tight budgets. If the citizen lives in a MDU the contract established by a developer or homeowners board of directors require these citizens to pay for services they may not be able to use.

Also, military personal living in our community is required to pay communication services while they are serving our country and away from home, that practice should be illegal. See comment recorded on the FCC docket 07-51 http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6520215752

Conclusion

Bulk services arrangements require citizens to pay for services they either don't need or want. This Notice asks questions about the information available to consumers at all stages of the purchasing process, including: (1) choosing a provider, (2) choosing a service plan, (3) managing use of the service plan, and (4) deciding whether and when to switch an existing provider all of those we are unable to choose. Citizens living in MDU demand open competition, and not the financial monopoly of bulk service arrangements.[4]

We did not received adequate disclosure of contract terms at closing, were tricked into agreeing to these contract terms, and in some cases automatically assumed to have agreed to them without signing any legal documentation. We are unable to seek alternative services and must pay the mandatory HOA fees for services not used or wanted. Even if we have the legal right to discontinue payment, we are unable to do so due to threat of liens against our properties. The builders, HOA's, and providers have left us little to no recourse other than to seek legal action, which they know most of us cannot afford to the extent that they are fiscally able to drag this out.

The only way to protect our consumer rights is through intervention by the FCC by acting on FCC Docket 07-51 and this new inquiry. By conducting this inquiry, the FCC recognizes of the importance of identifying disclosure policies that benefit consumers. Consumers nationwide are in need of government intervention as our efforts with these companies were unsuccessful. We need to know that we can get access to any telecommunication provider regardless of where we live. The FCC needs to act now.

[4] Antitrust Division of the U.S. Department of Justice Re; H.B.1500, Cable and Video Competition Law of 2007 http://www.usdoj.gov/atr/public/comments/223444.htm