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

In the Matter of	)	
	)	
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

COMMENTS OF RURAL CELLULAR ASSOCIATION

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SUMMARY

The Commission's *Notice of Inquiry* marks the initiation of a proceeding to examine whether there are opportunities to take further steps to ensure that consumers have sufficient access to relevant communications service information. Rural Cellular Association applauds the Commission's objectives, and also suggests that the agency should take a number of factors into account as it proceeds with its inquiry.

Recent data shows that the wireless industry has made significant strides in improving consumer satisfaction ratings, and RCA believes that this success is due in large part to steps taken by the wireless industry to protect and empower consumers.

One example is the wireless industry's adoption of a voluntary "Consumer Code for Wireless Service" as a means of ensuring that consumers have access to information they need to make educated decisions regarding their selection and use of wireless services. If the Commission decides to pursue opportunities to enhance consumers' access to communications service information, then RCA believes that the agency should give strong consideration to utilizing the wireless industry's Consumer Code as a model for this purpose.

Although RCA believes that the Consumer Code would need to be revised and expanded in order to be used as such a model, RCA stands ready to work with the Commission in undertaking such a task because RCA is convinced that the success of voluntary standards in the wireless industry can be repeated with respect to other communications services, and that voluntary mechanisms are a reasonable alternative to rigid regulatory requirements that would be burdensome for rural wireless carriers and other small service providers.

RCA also suggests that the Commission should eliminate specific prohibitions in its current truth-in-billing rules that are aimed at practices such as "cramming" and instead should rely

on existing statutory requirements. These regulatory prohibitions, at least with respect to rural wireless carriers, are no longer necessary to achieve the agency's objectives. RCA also urges the agency to retain the two wireless carrier exemptions to the truth-in-billing rules, because the requirements involved (one relates to separate listings of charges if two or more carriers appear on a bill, and the other relates to identifying charges on a customer's bill that will result in disconnection of basic local service if they are not paid) do not have any relevance or application to wireless carriers' practices or services.

If the Commission decides in this proceeding that new types of information—such as detailed service usage data—should be included in customers' bills, then the agency should rely upon voluntary mechanisms, such as the wireless industry's Consumer Code, as a means of encouraging communications service providers to make such information available to their customers. If the agency concludes instead that regulations must be imposed, then it should avoid detailed requirements so that service providers will have the flexibility to provide the required information in a way that meets their own specific needs and those of their customers.

Finally, RCA urges the Commission, in deciding whether to design any additional information disclosure policies, to take into account the burdens that new disclosure requirements would impose on rural wireless carriers and other small communications service providers. RCA supports the agency's goal of protecting and empowering consumers through access to information about communications services, but is also concerned that additional disclosure requirements could impose significant costs on service providers. These new costs would impose a disproportionate burden on rural wireless carriers, especially as they battle to remain competitive in a marketplace that is dominated by large national carriers.

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Rural Cellular Association ("RCA"), by its attorneys, hereby submits these Comments in response to the *Notice of Inquiry* adopted by the Commission in the above-captioned proceedings, in which the Commission seeks comment regarding whether there may be opportunities "to protect and empower American consumers" by ensuring that they have sufficient access to relevant information regarding communications services.[1]

RCA is an association representing the interests of approximately 90 small, mid-sized, and regional wireless licensees providing commercial services to subscribers throughout the Nation and geographically licensed to serve over 80 percent of the United States. Most of RCA's members serve fewer than 500,000 customers.

I. INTRODUCTION.

RCA commends and supports the Commission's decision to initiate a proceeding to examine whether steps should be taken to protect and empower consumers by making available additional information related to their communications services. Informed consumer judgments

[1] Consumer Information and Disclosure, Truth-in-Billing and Billing Format, IP-Enabled Services, CG Docket No. 09-158, CC Docket No. 98-170, WC Docket No. 04-36, *Notice of Inquiry*, FCC 09-68, 2009 WL 2751095, rel. Aug. 28, 2009 ("*Notice of Inquiry*" or "*Notice*"), at para. 1.

are a key ingredient in ensuring that communications markets are efficient and competitive. Arming consumers with relevant information, while also guarding them against the dissemination of misleading or confusing information, are important Commission goals.

The Commission should be cautious, however, in deciding whether to impose new regulations to pursue these goals. Regulations could rob service providers of the flexibility needed to respond to consumers' needs and demands, and could also impose significant burdens on communications service providers. These burdens would be felt acutely by rural wireless carriers, and could impair their ability to compete against the larger national carriers.

In considering alternatives to the imposition of new regulatory requirements, the Commission should take note of the fact that the wireless industry has been successful in utilizing voluntary mechanisms and standards as a means of implementing consumer protections and providing consumers with information about their wireless services. RCA urges the Commission to give strong consideration to utilizing voluntary industry standards as a model for ensuring that greater access to service information will enhance consumer protection and empowerment.

II. NUMEROUS INDICATORS ILLUSTRATE A SIGNIFICANT DEGREE OF CONSUMER SATISFACTION WITH WIRELESS SERVICES.

RCA strongly endorses the Commission's initiative to examine whether any steps should be taken to enhance consumers' access to relevant information pertaining to the provision of communications services. Among the potential benefits that could result from this examination would be optimizing the performance of competitive markets, since, as RCA has noted, these markets depend in part upon the capability of consumers to make informed decisions about their selection and utilization of services and products.

RCA believes that an important aspect of the Commission's examination should be an assessment of trends in consumer satisfaction with respect to communications services. If "con-

sumer awareness about the purchase of communications services"[2] is low, then this likely would be reflected by consumers' overall dissatisfaction with communications service providers.

The wireless industry will score well in any such assessment by the Commission. Recent data confirms that consumers are increasingly satisfied with the services provided by wireless carriers. For example, a survey published by Consumer Reports earlier this year shows that 60 percent of the magazine's readers "were completely or very satisfied with their [wireless] service."[3] The report indicates that, "[o]verall, cell-phone service has become significantly better," and that this improvement has resulted in customer satisfaction with wireless service now being close to the average among all services rated by Consumer Reports.[4]

This trend of improvement in customer satisfaction regarding wireless service is also reflected in recent statistics published by the American Customer Satisfaction Index.™ ("ACSI"). In measurements taken by ACSI for the second quarter of this year, wireless telephone service scored 69 (on a scale of 100) with respect to overall customer satisfaction, up from a score of 63 for the wireless industry in 2005.[5] This rating compares favorably with scores measured by ACSI for the cable and satellite television,[6] airline,[7] and energy utilities[8] industries.

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[2] *Id*. at para. 7.

[3] "Best Cell Phone Service," CONSUMER REPORTS, Jan. 2009, accessed at http://www.consumerreports.org/cro/electronics-computers/phones-mobile-devices/phones/cell-phone-service-providers/cell-phone-service/overview/cell-phone-service-ov.htm.

[4] *Id*.

[5] *See* ACSI, "Wireless Telephone Service," accessed at http://www.theacsi.org/index.php?option=com_content&task=view&id=147&Itemid=155&i=Wireless+Telephone+Service. ACSI uses a model that is "a set of causal equations that link customer expectations, perceived quality, and perceived value to customer satisfaction . . . ." Data is collected through customer telephone interviews. *Id*., accessed at http://www.theacsi.org/index.php?option=com_content&task=view&id=49&Itemid=28.

[6] *Id*., "Cable & Satellite TV," accessed at http://www.theacsi.org/index.php?option=com_content&task=view&id=147&Itemid=155&i=Cable+%26+Satellite+TV (score of 63 for Q2 2009).

[7] *Id*., "Airlines," accessed at http://www.theacsi.org/index.php?option=com_content&task=view&id=147&Itemid=155&i=Airlines (score of 64 for Q2 2009).

Particular aspects of wireless carrier operations also reveal high levels of customer satisfaction. For example, a J.D. Power study completed in August finds that "overall customer care performance has improved considerably to 735 on a 1,000-point scale, up 12 points from the first wave of the study released in February."[9] Another J.D. Power study, completed last month, shows a high degree of satisfaction with respect to customers' in-store wireless retail store experience.[10] This latter study, and an earlier related study,[11] are significant because they show a heightened consumer awareness of, and interest in, service pricing and promotions.[12]

Although the Commission has cited an increase in the level of customer complaints filed at the agency involving wireless carriers,[13] RCA does not believe that this is necessarily probative regarding the extent to which consumers experience confusion or uncertainty regarding their services.[14] As the agency acknowledges, the level of complaints is minuscule when compared to

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[8] *Id*., "Energy Utilities," accessed at http://www.theacsi.org/index.php?option=com_content&task=View&id=147&Itemid=155&i=Energy+Utilities (score of 74 for Q2 2009).

[9] J.D. Power & Assoc., Press Release, "Increased First-Contact Problem Resolution and Shortened Hold Times Drive Improvements In Wireless Customer Care Performance," rel. Aug. 13, 2009, at 1 ("J.D. Power August 2009 Press Release"), accessed at http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2009148.

[10] J.D. Power & Assoc., Press Release, "Smartphone Users Are More Satisfied with Their Wireless Retail Sales Experience, Compared with Traditional Handset Users" rel. Sept. 17, 2009, at 1, accessed at http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2009200 (showing an industry ranking of 712 on a 1,000-point scale).

[11] J.D. Power & Assoc., Press Release, "Price Incentives and Promotions Help to Drive Wireless Customers to Retail Stores," rel. Apr. 2, 2009, at 1 ("J.D. Power April 2009 Press Release), accessed at http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2009052.

[12] *Id*. (noting that "'[c]onsumers are scrutinizing their spending now more than in the past, so it is important for wireless carriers to present customers with attractive incentives, rebates and discounts on services and equipment to increase customer satisfaction, particularly as network technology improves and phones become more expensive.'") (quoting Kirk Parsons, Senior Director of Wireless Services, J.D. Power & Assoc.).

[13] *Notice of Inquiry* at para. 15.

[14] *See id*.

the level of wireless subscribership.[15] Moreover, a recent survey indicates that wireless carriers are doing a better job in resolving customers' billing and other service problems.[16]

While RCA shares the Commission's goal of providing American consumers with access to relevant information about their communications services, RCA also believes that the wireless industry continues to make productive efforts toward achieving this goal and increasing the level of customer satisfaction with the industry's services and products. Any attempt by the Commission to adopt regulations compelling actions by carriers related to information access should take into account the successful efforts being undertaken by the communications industry not only to provide information that is useful to consumers, but also to be responsive to consumers' concerns about service selection, billing, and related issues.[17]

III. VOLUNTARY CONSUMER STANDARDS USED BY THE WIRELESS INDUSTRY ARE A USEFUL MODEL FOR ENSURING CUSTOMER SATISFACTION AND ACCESS TO RELEVANT SERVICE INFORMATION.

The use of consumer codes represents an important and productive effort undertaken by the wireless industry to improve consumer satisfaction with wireless services, and to provide consumers with pertinent information regarding these services. These voluntary standards mechanisms can serve as a useful model for the entire communications industry, and therefore should be given serious consideration by the Commission for use by other types of communica-

[15] *See id*. & n.41 (citing the fact that there were 270 million wireless subscribers in 2008).

[16] J.D. Power August 2009 Press Release at 1 (concluding that "[o]verall wireless customer care performance has improved considerably as customers report shorter hold times and improved rates of problem resolution on the first contact, compared with six months ago").

[17] The Commission should also take into account the burdens that such regulations could impose on rural wireless carriers and other small carriers. This issue is discussed in Section V., *infra*.

tions service providers.[18] It has been the experience of RCA's members that voluntary industry codes are an effective means of ensuring the protection of consumers.[19]

A. The Wireless Consumer Code Has Benefited Wireless Service Customers and Facilitated Their Access to Service Information.

The Consumer Code[20] adopted by CTIA in 2003, is intended to "ensure [that] consumers have a baseline set of uniform expectations and access to the information they need to make educated decisions about their wireless service . . . ."[21] The Consumer Code accomplishes this objective by establishing voluntary standards covering numerous aspects of the customer-carrier relationship. The provisions of the Code are summarized as follows:

1	*Disclose Rates and Terms of Service to Consumers*	Wireless carriers commit to making available to new subscribers various information relating to rate plans, including the calling area for the plan; airtime minutes included in the plan; charges for excess or additional minutes; per-minute roaming charges; any additional taxes, fees, or surcharges that apply; any activation or initiation fees; and any early termination fees.
2	*Make Available Maps Showing Where Service Is Generally Available*	Wireless carriers agree to make available maps showing approximate voice service coverage for each rate plan offered to consumers. The maps are produced using generally accepted methodologies and standards to make it possible for consumers to make comparisons among carriers.
3	*Provide Contract Terms to Customers and Confirm Changes in Service*	Material terms and conditions of service will be provided to subscribers.
4	*Allow a Trial Period for New Service*	Customers are given a period of not less than 14 days to try out a carrier's service, and early termination fees will not apply if the customer cancels service during this period.
5	*Provide Specific Disclosures in Advertising*	Wireless carriers will disclose material charges and conditions in their wireless service advertising, including activation fees; required contract terms; early termination fees; whether different or additional charges apply to calls outside the carrier's network; and whether additional taxes, fees, or surcharges apply.

[18] *See Notice of Inquiry* at para. 32; *id*., Statement of Commissioner Meredith A. Baker (indicating that Commissioner Baker is "particularly encouraged that the item recognizes industry's voluntary efforts to address consumer demands for more and better information about products and services").

[19] *See Notice of Inquiry* at para. 32.

[20] CTIA, "Consumer Code for Wireless Service" ("Consumer Code" or "Code"), accessed at http://www.ctia.org/consumer_info/service/index.cfm/AID/10352.

[21] CTIA, "Consumer Protection Standards" ("CTIA Standards"), accessed at http://www.ctia.org/advocacy/policy_topics/topic.cfm/TID/61. *See Notice of Inquiry* at para. 11.

6	*Separately Identify Carrier Charges from Taxes on Billing Statements*	Monthly charges are distinguished from taxes, fees, and other charges on customers' bills, and carriers will not label cost recovery fees or charges as taxes.
7	*Provide Customers the Right To Terminate Service for Changes to Contract Terms*	Carriers will provide reasonable advance notice before making a material contract change adverse to the subscriber, and the subscriber will be given a period of not less than 14 days to cancel without being subject to any early termination fee.
8	*Provide Ready Access to Customer Service*	Wireless carriers will take several steps to ensure access to customer service, including providing their subscribers with toll-free telephone numbers to reach customer service during normal business hours.
9	*Promptly Respond to Consumer Inquiries and Complaints Received from Government Agencies*	Wireless carriers will respond in writing to government agencies within 30 days of receiving a written consumer complaint from the agency.
10	*Abide by Policies for Protection of Customer Privacy*	Wireless carriers commit to protecting the privacy of customer information.

In examining whether any actions are needed to advance its goal of protecting and empowering consumers through the provision of access to relevant service information, the Commission should give consideration to relying on voluntary industry mechanisms such as the Consumer Code. Voluntary industry codes and standards have several advantages, including the fact that the codes can be modified and enhanced—more readily than government regulations—in order to respond to consumers' concerns and address emerging issues and problems.

In the wireless marketplace, for example, the "front lines" of consumer concerns and problems are the myriad daily interactions between consumers and their wireless carriers. These interactions can illuminate patterns of customer concerns about the provision of service and carrier practices. If alarm signals emerge, the flexibility afforded by voluntary mechanisms such as the Consumer Code provides the wireless industry with the ability to develop and implement new best practices that are responsive to the identified customer concerns.

Another advantage of voluntary industry codes and standards is that industry "peer pressure" can make the standards effective. In the wireless industry, as the Commission has indi-

cated,[22] a carrier that certifies its compliance with the Customer Code is entitled to display a Seal of Wireless Quality/Consumer Information reflecting its willingness to adhere to the industry's standards. This may have competitive implications, prompting other carriers to certify adherence to the Code in order to avoid any competitive disadvantage. In fact, CTIA has pointed out that carriers serving more than 94 percent of all wireless customers have implemented the Code.[23]

Finally, reliance on voluntary industry standards, of course, does not preclude subsequent regulatory action if the operation of the industry standards is shown to be ineffective in achieving the goals of consumer protection and empowerment. Thus, there would be little risk in the Commission's reliance on voluntary industry mechanisms, and RCA believes that the Consumer Code developed by the wireless industry provides an example of how such voluntary standards can be effective in accomplishing pro-consumer goals and objectives.

It would be administratively efficient for the Commission to rely on voluntary industry mechanisms in the first instance, if the agency were to determine in this proceeding that further steps are necessary to enhance consumers' access to communications service information, and the Commission's doing so would reduce the imposition of regulatory burdens on rural wireless carriers and other small wireless service providers.[24]

B. The Commission Should Consider Several Issues Relating to Use of the Wireless Industry's Consumer Code as a Model for Providing Consumers with Sufficient Access to Communications Service Information.

If the Commission were to decide that consumers' access to relevant communications service information should be enhanced, then RCA believes the agency should examine the util-

[22] *Notice of Inquiry* at para. 11.

[23] *See* CTIA Standards.

[24] See the discussion in Section V., *infra*.

ity of voluntary industry codes and standards as a means of doing so.[25] As RCA has discussed, the wireless industry's Consumer Code presents a useful model for such an examination, and RCA also suggests the Commission's review of the Code as a possible basis for developing voluntary standards for all communications services should include two lines of inquiry.[26]

First, the Commission should evaluate whether and to what extent the Consumer Code should be expanded and enhanced in order to address various issues and concerns that are discussed by the agency in the *Notice of Inquiry*. For example, the *Notice* raises various questions and issues concerning the ability of consumers to assess carriers' service quality as part of their choosing a carrier.[27] The Commission cites a number of factors that may be relevant to a consumer's assessment of the service quality being provided by competing carriers, including dropped calls and signal strength at various locations.[28] The Code generally does not address these issues.

Another example discussed by the Commission involves information concerning bundled service offerings. Numerous types of information pertaining to bundling may be relevant to a consumer's examination of service plans offered by a carrier, including whether there is advance disclosure about the effects of a customer's terminating one of the services in a bundle, and whether carriers' bills enable customers to compare prices of bundled services to prices for the same services offered *à la carte*.[29] The Code does not specifically address these bundling issues.

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[25] *See Notice of Inquiry* at para. 37 (inquiring whether there are measures the Commission could undertake to facilitate voluntary measures among service providers).

[26] *See id*. at para. 32 (inquiring whether there are "refinements to the Code that should be undertaken to benefit consumers").

[27] *Id*. at para. 26.

[28] *Id*.

[29] *Id*. at para. 33.

As a general matter, although the Consumer Code has been instrumental in protecting and empowering wireless consumers, it has been the experience of many of RCA's member carriers that the Code could be updated and expanded in order to better reflect recent developments and practices regarding the marketing and provision of services. RCA stands ready to work with the Commission in its exploration of ways in which the Consumer Code could be expanded to make it a more effective tool in providing communications service information to consumers.

Second, the Commission should examine provisions in the Consumer Code that are either outmoded or inadequate in meeting consumers' needs for relevant service information or in providing consumers with sufficient mechanisms for resolving disputes with carriers. For example, while the Consumer Code commits carriers to respond to government agencies within 30 days of receiving a consumer complaint from the agency, this standard may not be sufficient to address customer complaints. It therefore may be appropriate for additional voluntary measures to be considered, and for these mechanisms to include a commitment by service providers to disclose to consumers the processes used by the service providers to address complaints and resolve disputes.[30]

RCA believes that an effective way to protect and empower consumers is to ensure that a service provider has in place sufficient mechanisms and procedures to afford subscribers with an opportunity to raise and resolve disputes informally with the service provider in the first instance. Customers, of course, should have the opportunity to seek the Commission's involvement in settling disputes with their service providers, but RCA believes that both consumers' in-

[30] For example, Cellular South (an RCA member) provides information on its website regarding the use of binding arbitration to resolve customer disputes. *See* Cellular South, Customer Service Agreement, accessed at https://www.cellularsouth.com/cscommerce/global/general_landing.jsp?id=/generic/customer ServiceAgreement.

terests and administrative efficiency are better served by voluntary mechanisms established by service providers to facilitate the informal resolution of disputes.[31]

As stated above, RCA would welcome the opportunity to participate in any processes the Commission may pursue to revise the Consumer Code so that it could serve as a more effective model for other types of communications service providers. Because of its representation of small wireless carriers, RCA would bring a useful perspective to such an undertaking.

IV. THE COMMISSION SHOULD TAKE A FRESH LOOK AT ITS TRUTH-IN-BILLING RULES, AND SHOULD BE CAUTIOUS ABOUT EXPANDING THESE RULES BY IMPOSING ADDITIONAL DISCLOSURE REQUIREMENTS.

The Commission asks whether specific truth-in-billing rules[32] may no longer be necessary,[33] and also indicates that its current inquiry extends to "additional disclosures that may be necessary to enable better use and cost control under [consumers'] existing service plan[s]."[34] Although RCA supports the laudatory goal of the truth-in-billing rules, *i.e.*, to protect consumers from confusing, deceptive, or fraudulent telecommunications charges by requiring greater clarity and disclosure in service providers' bills, RCA also believes that some of the truth-in-billing requirements may no longer be necessary.

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[31] For this reason, RCA does not believe it would be wise for the Commission to require service providers to include on their monthly bills information about how to contact the agency to file a complaint. *See Notice of Inquiry* at para. 51. While RCA has no objection to invocation of the agency's complaint processes (and the Consumer Code specifically commits Code signatories to respond quickly to the Commission upon receiving a complaint forwarded by the agency), requiring a listing of Commission contact information on service providers' monthly bills could have the inadvertent effect of short-circuiting the service providers' informal dispute resolution processes. Such a result could make it more, not less, cumbersome and time-consuming for customers to obtain resolution of their complaints.

[32] 47 C.F.R. §§ 64.2400–64.2401. *See* Truth-in-Billing and Billing Format, CC Docket No. 98-170, *First Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 7492 (1999) ("*First Truth-in-Billing Order*"); Truth-in-Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing, CC Docket No. 98-170, CG Docket No. 04-208, *Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking*, 20 FCC Rcd 6448 (2005).

[33] *Notice of Inquiry* at para. 36.

[34] *Id.* at para. 35.

Specifically, the *Notice of Inquiry* indicates that a principal reason for adopting the truth-in-billing rules was to "deter unscrupulous practices, such as 'cramming' . . . ."[35] Unless the Commission is presented with convincing evidence that practices such as "cramming" and "slamming" persist as significant problems in the communications industry, RCA encourages the agency to repeal the specific prohibitions contained in Section 64.2401 of its Rules, and to rely instead on the reasonableness and non-discrimination requirements of Sections 201 and 202 of the Communications Act of 1934[36] to guard against continuing occurrences of these practices.[37]

Certainly in the case of small wireless carriers, these specific prohibitions are not necessary (even if it could be concluded that they were necessary when they were imposed by the Commission). For example, "cramming" is not a likely problem among small wireless carriers such as RCA's member carriers, because these carriers generally offer a limited number of services, all of which are spelled out in detail on their monthly bills, and they typically do not include in their bills any charges for services rendered by third party entities.[38]

In addition, RCA believes that the Commission should retain the two exemptions from the truth-in-billing rules that currently apply in the case of wireless carriers. The exemption from Section 64.2401(a)(2),[39] which requires a separate listing of charges if two or more carriers appear on a wireless carrier's bill, should remain in effect because, as the agency noted in the *First Truth-in-Billing Order*, wireless carriers are not subject to equal access requirements and therefore will seldom need to list a new long distance service provider on their bills.[40] In addition, the

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[35] *Id*. at para. 40.

[36] 47 U.S.C. §§ 201, 202.

[37] *See First Truth-in-Billing Order*, 14 FCC Rcd at 7502 (para. 19).

[38] *See Notice of Inquiry* at para. 41.

[39] 47 C.F.R. § 2401(a)(2).

[40] *See First Truth-in-Billing Order*, 14 FCC Rcd at 7502 (para. 16).

exemption from Section 64.2401(c),[41] which requires carriers to delineate on their bills which charges will result in disconnection of basic, local service if the charges are not paid, should remain in effect because this rule applies in a wireline context and has no relevance to wireless carriers.[42]

Finally, in weighing whether to impose additional disclosure requirements by regulation, the Commission should be mindful of the conclusion it reached with respect to wireless carriers ten years ago, when it "reject[ed] [a] detailed regulatory approach . . . because we envision that carriers may satisfy these obligations in widely divergent manners that best fit their own specific needs and those of their customers."[43] For example, the Commission states that "consumers need additional information to help them manage their service plans"[44] and then asks about "[w]hat types of usage information . . . service providers [should] include in their billing statements to help consumers evaluate whether their service plan continues to fit their usage patterns[.]"[45] If the agency were to conclude that it would be desirable for carriers to provide usage information in monthly bills, then, as discussed previously in these Comments, the Commission should encourage the development of voluntary industry mechanisms and standards to achieve this goal. RCA would welcome the opportunity to work with the Commission toward the development of these mechanisms and standards. If, however, the Commission were to find itself compelled to impose regulatory requirements relating to the provision of usage information, then RCA believes that, in keeping with the findings made by the agency ten years ago, the Commis-

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[41] 47 C.F.R. § 2401(c).

[42] *See First Truth-in-Billing Order*, 14 FCC Rcd at 7536 (para. 70).

[43] *Id*. at 7501 (para. 15).

[44] *Notice of Inquiry* at para. 43.

[45] *Id*.

sion should avoid detailed requirements, and instead should give service providers the flexibility to develop suitable ways in which to make usage information available to their customers.

V. ANY NEW CONSUMER INFORMATION REQUIREMENTS SHOULD BE DESIGNED IN A MANNER THAT AVOIDS IMPOSING BURDENS ON RURAL WIRELESS CARRIERS AND OTHER SMALL SERVICE PROVIDERS.

Although the Commission has expressed the view that, "[i]f designed correctly, disclosure policies are among the least intrusive regulatory measures at the Commission's disposal[,]"[46] this does not necessarily mean that service providers could comply with these policies without incurring any significant burdens or costs. RCA urges the Commission, in seeking "cost-effective best practices in information disclosure[,]"[47] to evaluate the burdens that such practices could impose on rural wireless carriers and other small service providers.

A case in point is the question of "whether consumers need information displayed in a consistent format that allows them to compare their current service with the new and increasing offerings of other providers."[48] RCA favors enhancing the ability of consumers to make these comparisons. In fact, RCA's member carriers often benefit from such comparisons because they are able to compete effectively against larger carriers by providing more efficient and personalized customer care services, and by providing regional service plans that generally are not offered by the large, national carriers.

If the Commission were to decide that the display of service information in a consistent format is necessary to protect and empower consumers, then the issue would become whether this display of information should be imposed through regulatory action. RCA believes that the Commission should avoid such a step because the regulations could inflict unnecessary burdens

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[46] *Notice of Inquiry* at para. 5 (footnote omitted).

[47] *Id*.

[48] *Id*. at para. 23.

that could be difficult for rural wireless carriers and other small service providers to absorb. For example, the development of the regulations would likely be a contentious process that would impose costs on those parties seeking to participate in the Commission's proceedings. Moreover, compliance with the regulatory requirements, once they are prescribed, would also impose burdens: Service providers' current marketing practices and materials would need to be revised; any amendments to the regulations, and Commission rulings about application of the regulations, would need to be monitored so that service providers could make any further revisions necessary to maintain compliance; and service providers whose information display practices have not been kept up-to-date could face penalties for non-compliance.

These burdens would have particular impact on small service providers. In the wireless industry, for example, small rural carriers are finding it increasingly difficult to remain competitive in the face of the growing dominance of the large national carriers.[49] In light of these difficulties, RCA urges the Commission to weigh carefully the advisability of imposing regulatory requirements. A cautious approach is especially warranted since there is evidence that, at least in the wireless marketplace, consumers currently seem able to make informed decisions based on

[49] *See*, *e.g*., RCA Comments in WT Docket No. 09-66 (Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services), filed Sept. 30, 2009, at 4-5 (describing the "alarming concentration in the wireless marketplace").

the pricing of service plans,[50] and carriers are using voluntary mechanisms to provide information to consumers that is useful for comparative shopping purposes.[51]

A second case involves the prospect of the Commission's requiring service providers to include usage information in their billing statements, as discussed above. The inclusion of usage information could force the modification or redesign of billing software, and could require the inclusion of additional pages in customers' monthly bills, thus increasing paper, printing, and postage costs. These costs would be particularly burdensome to rural wireless carriers, who would be forced to pass them along to their customers and would also find it more difficult to compete against larger carriers that are better positioned to absorb such additional costs.

VI. CONCLUSION.

Consumers' satisfaction with their wireless service is on the rise, and wireless consumers are increasingly able to use carrier-provided information to make informed decisions about their subscription to, and use of, wireless services. Moreover, the wireless industry has paved the way in using voluntary industry standards as a means of protecting and empowering consumers.

RCA stands ready to work with the Commission in seeking to improve and expand these voluntary mechanisms as a means of enhancing consumers' access to information relating to all communications services. Such an approach is one means of seeking to minimize the burdens that service providers would face in making additional information accessible to consumers.

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[50] As noted earlier in these Comments, there is a high degree of customer satisfaction (a score of 712 on a 1,000-point scale) with in-store wireless retail stores. The J.D. Power survey found that "the importance of price and promotion on customer satisfaction with the wireless retail sales experience has increased considerably, from 16 percent in 2006 to nearly 30 percent in 2009." J.D. Power April 2009 Press Release. The survey thus supports the view that wireless consumers are making purchasing decisions based on information relating to price and promotions, and that they are increasingly satisfied with the access they have to this information.

[51] *See* Consumer Code, Item Two (provision of service coverage maps designed to enable consumers to make comparisons among carriers).

Given the particular concerns of rural wireless carriers with regard to the costs associated with additional consumer information requirements, RCA urges the Commission to consider the need to strike a reasonable balance between consumer interests and industry burdens as it assesses the record in this proceeding and evaluates whether further regulatory action is necessary.

Respectfully submitted,

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