Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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 THE

INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

I. INTRODUCTION

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits these comments in the above-captioned proceedings. ITTA is an alliance of mid-size telephone companies that collectively serve approximately 30 million access lines in 44 states, and offer subscribers a broad range of high-quality wireline and wireless voice, data, Internet, and video services. ITTA members recognize that consumers should have access to accurate information about services to which they subscribe. The Commission, however, should refrain from imposing additional regulations that would change the manner or content of information required; rather, the Commission should rely upon existing regulations and safeguards imposed by the competitive marketplace, and not obstruct provider opportunities to respond flexibly and to market demands.

The touchstone of the Commission's consideration of any new consumer disclosure and information rules should be whether the proposed rules are necessary to prevent deceptive and misleading marketing practices. Any new regulation should respond narrowly to an existing, significant problem, as demonstrated by valid consumer complaints and specific evidence of communications providers' practices. The creation

of a "one-size-fits-all" prescription for consumer disclosure practices would be imprudent. Rather than micromanage providers' practices, the Commission should instead encourage innovation and differentiation as providers develop new ways to reach and communicate with consumers. Further, in the interest of regulatory parity and the need to ensure that consumers have access to necessary information, ITTA supports application of existing truth-in-billing regulations to all VoIP providers.

II. SIGNIFICANT MODIFICATIONS TO THE SUBSTANCE OF EXISTING RULES SHOULD BE AVOIDED.

A. THE REQUIREMENTS THAT ADDRESS INFORMATION PROVIDED ON CONSUMERS' BILLS SHOULD NOT BE ALTERED.

Increased competition in the communications marketplace increases the imperative for carriers to address consumer satisfaction. In a universe populated by many carriers providing services across several platforms, consumers enjoy a freedom of choice to select from among services that are frequently at the cusp of innovative technologies. Carriers are, accordingly, encouraged to ensure that their presentations to customers, whether marketing or billing, are clear, concise, accurate, and free of confusion. These elements are key toward solidifying customer loyalty in a crowded marketplace.

The Commission recognized previously the value in not micromanaging presentation of billing information. Currently, bills of carriers are required to (1) be clearly organized, with clear identification of the service provider and any new providers; (2) contain full and non-misleading descriptions of any charges that appear on the bill; and, (3) clearly and conspicuously disclose any information the customer might need in order to make inquiries about, or to contest charges contained on, the bill.[1] These broad

[1] 47 CFR § 64.2001.

parameters allow carriers the flexibility to design and organize billing statements to best meet the needs of their customers.[2] The absence of detailed requirements relating to composition or the manner in which information must be presented ensures that carriers are not compelled to create statements laden with information that is neither useful nor of interest for their customers. Instead, the Commission ordered wisely the clear provision of basic information, along with directions that enable consumers to contact their carrier for follow-up inquiries.

The Commission's current regulations avoid the confusion and unnecessary expense that would be generated if carriers were required to provide customers with information in excess of what consumers need. By requiring the provision of essential basic information, and facilitating further customer contact with the carrier, the Commission has carved a path toward clarity and efficiency. Carrier bills and other information need not be defined beyond the parameters established previously by the Commission. Carriers' interest in fostering and preserving customer goodwill and loyalty serve as complementary incentives to existing rules.

The wisdom of the current broad "principles" type standards[3] can be illustrated by invoking preliminary statements in the instant *Notice*. The Commission explains:

> In seeking more information on these topics, we are particularly interested in understanding cost-effective best practices in information from within the communications sector – as well as familiar examples from other areas, such as nutrition labeling on food products, fuel efficiency on

[2] *See, e.g., Truth- in-Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing: Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking,* CC Docket No. 98-170, CG Docket No. 04-208, FCC 05-55, at para. 5 (2005) (Second Truth-in-Billing Order and FNRPM).

[3] *See* Second Truth-in-Billing Order and FNPRM at para. 3 ("The Commission incorporated these principles into rules 'because we intend for these obligations to be enforceable to the same degree as other rules.'" (internal citation omitted)).

> automobiles, energy efficiency for household appliances, rates and fees for credit cards, and labeling for prescription drugs.[4]

Food products, fuel and energy efficiency, and rates and fees are measurable by common units: the nutritional value of food can be measured on a per-ounce basis, and fuel and energy efficiency can be measured in distance, thermal units, or watts per unit of fuel. By contrast, although communications could be measured on a per-minute or distance basis, the current communications marketplace trend toward flat rates and bundled services obviates most of the value that might be informed by incremental unit-based values. Therefore, the current market is best served by general billing information standards that rely upon the codified principles mandating clear and accurate information.

The Commission is correct that "access to accurate information . . . empowers consumers by allowing them to choose services that better meet their needs and match their budgets."[5] To that end, the Commission should ensure that efforts to promote accurate information are not befuddled by unnecessary intricacies. As the Commission has found previously, the "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."[6] The current broad requirement to provide accurate information in a clear manner embraces the

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[4] *Consumer Billing Information and Disclosure; Truth-in-Billing and Billing Format; IP-Enabled Services: Notice of Inquiry,* CG Docket No. 09-158, CC Docket No. 98-170, WC Docket No. 04-36, FCC 09-68, at para. 4 (2009).

[5] NOI at para. 5.

[6] *Truth-in-Billing and Billing Format: First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 98-170, FCC 99-72, at para. 10 (1999) (First Truth-in-Billing Order and FNPRM).

imperative without compromising providers' flexibility to communicate effectively with their customers, and should not be changed.

B. CAUTION SHOULD BE EXERCISED WHEN CONSIDERING NEW REGULATIONS BEYOND THE BILLING CONTEXT.

Outside of the billing context, the Commission should likewise avoid casting a wider regulatory net over the industry than necessary. The touchstone of the Commission's consideration of any new consumer disclosure and information rules should be whether the proposed rules are necessary to prevent deceptive and misleading marketing practices. Any regulation should respond narrowly to an existing, significant problem – as demonstrated by valid consumer complaints and specific evidence of communications providers' practices. It would be poor public policy to go further and attempt to create a one-size-fits-all prescription for communications providers' consumer disclosure and information practices. Information offered by providers that is intended to inform consumers about their service plans is already generally covered by state and Federal regulations that govern commercial advertising. Duplicative regulatory structures should not be established. Moreover, while consumers who are selecting service plans or providers may benefit from tailored categories of information, it would be presumptuous, if not fundamentally unmanageable, to regulate how the totality of data relating to a carrier's service plans might be packaged in a manner that provides useful information to all current or would-be subscribers. As described above, certain data sets are easily measured and communicated in a manner that enables easy comparison among different providers; these may include nutritional information, based upon universal units of calories (a measure of energy) per ounce (a measure of weight or volume), or energy efficiency information based upon units of fuel consumed in order to produce defined

units of energy (*e.g.,* resulting in thermal, distance, or other results). By contrast, the communications industry in many respects is moving toward a "distance-less" model in which the lines between local and long-distance are obscured by flat rate, "all you can eat" service plans that tend to erase notions of "per-minute" or per-call pricing. Categorizing that sort of information in a manner that would endeavor to be useful to consumers selecting service plans or providers would be akin to requiring food manufactures to address individual consumers' respective dietary considerations, *e.g.,* assumptions based on information that is unique to each user, and which cannot be known to the provider.

The Commission should proceed with caution when considering whether requirements should extend beyond information on rates, terms of service, and other information as is customarily provided. There is no need to expand significantly the universe of regulations. Consumers can avail themselves of standard information already available, and contact providers for additional information as may be necessary. New rules that would prescribe a consistent format could deny a carrier the opportunity to employ creative text or graphical arrangements to emphasize a particular aspect of its service offering; carriers seeking to emphasize particular offerings could be forced to print duplicative statements, one in a standardized format to meet requirements, and one in a manner reflecting professional advertising or other judgments. Moreover, the rapid evolution of services begs the question of how "standard" a standardized format could be, absent bare requirements to inform consumers of rate information, cancellation information, and other basic terms of service (already adopted under 47 CFR § 64.2001).

The same concerns attend the Commission's broad inquiry into information that consumers find useful in managing their service plans. In a competitive market, providers would be ill-advised to alienate customers with obscure or misleading practices. Beyond the existing truth-in-billing requirements, carriers will be moved by the market to provide the information consumers want most. By way of example, a standard practice of carriers offering "buckets" of minutes is the disclosure at the end of each billing cycle of the total minutes used. The practice can assist a consumer in determining whether a more robust or trimmer plan would be advantageous.

Overarching the examples enumerated above is a global consideration of whether the Commission should involve regulatory processes in aspects of information that range beyond basic rates, terms, and conditions of service. Information presumably related to consumers' self-management (and which extends beyond data commonly provided) is likely available from the carrier upon contact by the consumer. The Commission should take caution when attempting to anticipate what format or additional information may be of use to consumers. The Commission's policies to date have been successful: consumers are assured accurate information in their bills, and the requirement that carriers provide "point of contact information" offers opportunity for additional discussion as appropriate.

III. CONSUMER INFORMATION AND DISCLOSURE RULES SHOULD APPLY TO ALL VOIP PROVIDERS.

The Commission asks whether existing truth-in-billing rules, or others that may arise out of the instant proceeding, should be extended to other services, including, *inter alia,* broadband Internet service. As a threshold response, ITTA submits that the success of the broadband Internet market has emerged in a lightly-regulated environment. While

ITTA supports efforts intended to enhance and ensure consumer protection, ITTA also advocates regulatory intervention only where necessary. In the instant proceeding, absent circumstances that would permit the Commission to regulate commercial speech,[7] the Commission should refrain from including broadband service providers within the ambit of truth-in-billing regulations. Competition in the marketplace motivates significant self-regulation. The matter of clearly extending truth-in-billing requirements to VoIP providers, however, is worthy of different consideration.

In the interest of regulatory parity and the need to ensure that consumers have access to necessary information, ITTA supports application of existing truth-in-billing regulations to all VoIP providers. The Commission notes "growing evidence of consumers substituting interconnected VoIP for traditional voice telephone service."[8] As noted above, ITTA agrees that the current stable of truth-in-billing requirements offers sufficient assurance for consumers while enabling carriers necessary flexibility. The extension of these requirements to VoIP providers would be consistent with prior Commission actions. As noted by the Commission, "some IP-enabled services, to the extent they are viewed as 'replacements for traditional voice telephony[,]' raise 'social policy concerns' relating to emergency services, law enforcement, disabilities access, consumer protection, and universal service."[9] Indeed, the Commission has not hesitated to impose "social" obligations on VoIP providers, including CALEA,[10] E-911,[11] and USF

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[7] *See* NOI at paras. 21, 22.

[8] NOI at para. 18.

[9] NOI at para. 12.

[10] *See, Communications Assistance for Law Enforcement Act and Broadband Access and Services: First Report and Order and Further Notice of Proposed Rulemaking,* ET Docket No. 04-295, RM-10865, FCC 05-153 (2005) (CALEA Order).

contributions.[12] The application of truth-in-billing requirements to all VoIP providers would be consistent with principles of regulatory parity by assigning to various providers of similar services similar obligations. A provider that offers a voice service to consumers, regardless of the underlying technology, should be subject to the same truth-in-billing requirements as other providers of voice services. In this regard, the Commission should not distinguish between providers of VoIP services and providers of interconnected VoIP services.

The Commission has in prior instances established obligations within the parameters of the broader policy or statute the Commission sought to fulfill. For example, when imposing CALEA obligations on interconnected VoIP providers, the Commission found that interconnected VoIP providers are telecommunications carriers under CALEA because interconnected VoIP providers that are connected to the PSTN "'must necessarily' user a router or server . . . ." This finding, in turn, met the definition of "switching" in the CALEA definition of "telecommunications carrier," thereby bringing interconnected VoIP within the definition of telecommunications carriers

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[11] *See, IP-Enabled Services, E-911 Requirements for IP-Enabled Service Providers: First Report and Order and Further Notice of Proposed Rulemaking,* WC Docket Nos. 04-36, 05-196, FCC 05-116 (2005) (E-911 Order).

[12] *See, Universal Service Fund Contribution Methodology* (WC Docket No. 06-122), *Federal-State Joint Board on Universal Service* (CC Docket No. 96-45), *1998 Biennial Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms* (CC Docket No. 98-171), *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990* (CC Docket No. 90-571), *Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size* (CC Docket No. 92-237), *Number Resource Optimization* (CC Docket No. 99-200), *Telephone Number Portability* (CC Docket No. 95-116), *Truth-in-Billing Format* (CC Docket No. 98-170), *IP-Enabled Services* (WC Docket No. 04-36): *Report and Order and Notice of Proposed Rulemaking*, FCC 06-94, at paras. 34-62 (2006).

covered by CALEA.[13] Likewise, the imposition of E911 requirements on interconnected VoIP was driven by the Commission's concern that "consumers expect that VoIP services that are interconnected with the PSTN will function in some ways like a 'regular telephone' service."[14] In the instant matter, the focus of the Commission's attention is consumer protection. Within that context, *all* providers offering a voice service should be subject to the same obligations. The consumer-oriented goals championed by truth-in-billing requirements are furthered when they apply to all VoIP providers. Similarly, the imperative of regulatory parity is met when all providers of a similar service are subject to similar obligations. To the extent that certain requirements, such as those relating directly to the provision of local service, may not be applicable to VoIP providers, exceptions similar to those implemented for CMRS providers may be imposed.[15]

IV. CONCLUSION

For the reasons stated above and herein, ITTA urges the Commission to refrain from imposing unnecessary additional obligations on providers, but to ensure that any obligations are imposed equitably and equally upon all providers of similar services.

Respectfully submitted,

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[13] CALEA Order at para. 41.

[14] E-911 Order at para. 23.

[15] *See, e.g.,* NOI at para. 19.