Access Theft:
The Big Problem with Unlimited Long Distance Plans

Presented by:

David Erickson
President, Free Conferencing Corporation
dave@freeconferencecall.com

Jeff Holoubek
Director of Legal and Finance, Free Conferencing Corporation
jeff@freeconferencecall.com

Ross Buntrock, Esq.
Arent Fox, LLP
(202) 775-5734; buntrock.ross@arentfox.com

October 15-16, 2009

About Free Conferencing Corporation

- An end user of telecommunications services formed in 2001
- “Free” conference call product allows each participant to pay for their own LD and pay their own way to a call by dialing a long distance number, rather than expensive “host pays” 8XXX plans
- Fee-based premium services
- Popular among nonprofits, entrepreneurs, and government agencies

Our Product Fosters Innovation and Economic Recovery

- Provides consumer-preferred alternative to expensive 800-conference call services;
- Allows collaborators to share costs evenly, rather than requiring a single-payer to pick up the tab;
- Minimizes the need for expensive travel and fosters practical telecommuting options;
- Promotes collaboration and efficiency within government agencies and nonprofit organizations, putting tax-payer and philanthropic dollars to better use;
- Enables entrepreneurs to constrain costs, better predict expenses, and promotes collaboration among businesses;
- Promotes important competition within the telecommunications sector, as envisioned by Congress;
- Promotes ubiquitous access to telephone network and provides LECs with important revenue diversification in the face of diminishing landline subscriptions.

Obama Campaign, and Business, Religious/Charity Organizations Are Biggest Users

- Obama for America
  - Used services to connect to the “ground troops” in a campaign celebrated for its use of technology; 5 million minutes of “pay-your-way” conferencing used during campaign
- The Salvation Army
  - Connecting 9,000 employees at over 1,600 sites nationwide; saving as much as $10,000/month
- The Hygeia Group, Inc. of Salem, Virginia
  - Small, entrepreneurial company using technology to improve access to healthcare nationwide through innovative staffing models; praise “ease of use and high quality connections” offered by Free Conferencing
- The Kidney Cancer Association
  - Thousands of dollars in annual savings used to fight kidney cancer rather than inflating IXC profits

AT&T, Sprint, Qwest, Verizon Are “Name Calling” But Wont Dispute Law or Facts

- Despite epithets hurled at Free ConferenceCall and LECs, no IXC denies that THEIR subscribers:
  - dial the telephone number
  - use FreeConferenceCall’s services, and
  - that IXCs collect subscription fees from them for these calls:
    - IXCs aren’t “losing money” on unlimited long-distance unless they’re making false allegations to the FCC and SEC.
    - IXCs <u>consistently</u> refuse to provide data regarding retail long-distance revenue.

How Carriers Make Money

The Distinction Between a "Carrier" and an "Anti-Carrier"

- We call a "Carrier" a Carrier because a Carrier makes its money carrying traffic.
- Conversely, an "Anti-Carrier" makes the most money when it DOES NOT carry traffic. In fact it makes the MOST money when it does not carry any traffic at all.
- The Anti-Carrier's incentive structure is opposite that of its Unlimited Long Distance offering.

Minute Pricing

Unlimited Long Distance Plans result in selling unlimited access to the PSTN to consumers who use the most minutes.

- An extreme example isso-called “VoIP carriers” selling unlimited long distance for $1.70 per month (12 months in advance).
- SpeakEasy (“call anyone anywhere” http://www.speakeasy.net/home/voip/faqs.php)
- “Free” or “Unlimited” carriers cannot and will not deliver on promises to provide consumers with Unlimited Long Distance to any destination.
- While AT&T doesn’t directly “block” (unlike Sprint), it does the same thing by refusing to pay for termination. Actually, it is worse – it is theft.
- Result is that effect of blocking/non-payment negative is borne by consumer of “free” or “low cost” or “unlimited” calling and not the provider. The consumer pays the price of the Anti-Carrier’s inability or unwillingness to deliver on its promise.

Usage Pricing

- IXCs have adopted an “unlimited” pricing model that has NO PER-MINUTE charges.
- While perhaps a clever marketing plan, according to their own legal arguments, this is not a rational economic model.
- This customer is not sensitive to the price, duration, or location of the call.
- This practice actually attracts customers who wish to make lots of calls.
- IXCs refuse to provide data demonstrating any loss.

Payment Models

- Traditional Carriers charge based upon the exact number of minutes used.
- Some Carriers choose to have the customer pre-pay for a pre-selected (UNLIMITED) number of minutes creating the opportunity for “breakage” profits.
- The Carrier reserves the right to charge for minutes used that are above and beyond the number of minutes pre-selected by the customer.
- The Anti-Carrier uses a pre-paid **“Unlimited”** model which it is <u>actually</u> <u>aware</u> may prove not to recover costs of service.

Should IXCs Price to Their Costs or to Their Competition or Alleged Costs?

- The Traditional Carrier prices to its cost choosing to mark-up each minute or create an average priced minute based upon the cost of that minute.
- The Anti-Carrier prices to the competition in hope of enticing more customers to use its service.
- A good example of an Anti-Carrier are “VoIP” carriers which sells the same PSTN access that the Traditional Carrier sells except that “VoIP” carriers sell their “unlimited” products at the monthly rate of $1.70 for an unlimited number of minutes.
- This is a VERY slippery slope that is already threatening the ubiquity of and the unfettered access to the PSTN.

Should Customers Shoulder the Risk that They May Use More Minutes than Their Unlimited Calling Plan Anticipates?

- If a Carrier wants to offer Unlimited Long Distance as a marketing strategy to capture customers, they are free to do so.
- However, if the Carrier decides to take the risk associated with mismatched costs and usage, then the Carrier should be responsible for that risk.
- Shifting that risk to the consumer by forcing the consumer to accept poor quality or blocked service contravenes basic notions of consumer protection and fairness.

Does Free Conferencing Raise the Price of Long Distance?

- Anti-Carriers (those who offer Unlimited Long Distance Plans) argue that when a customer calls into a conference call the Carrier incurs the cost of that long distance call without collecting any more money, and that this raises the cost of long distance when they re-average their plans.

- Traditional Carriers never make this argument, because unlike the Anti-Carrier that makes the most money when it carries no traffic, the Traditional Carrier makes more money when it carries more traffic.

Does Free Conferencing Raise the Cost of Providing Long Distance Service?

- The Anti-Carrier says that free conferencing services raise the price to consumers because they encourage high volume usage which raises the average cost per minute.
- Contrary to this opinion, Customers who use FreeConferenceCall.com are essentially making several long distance calls simultaneously to multiple parties with only ONE long-distance call, hence the name "Conference Call".
- The conference caller is more efficient, saving time otherwise spent calling multiple parties. Thus, the argument can be made that this efficiency actually reduces minutes used, and therefore FreeConferenceCall.com saves the customer long-distance charges.

Is Free Conferencing Paid for by Long Distance Carriers?

- No, Free Conferencing is free.
- A FreeConferenceCall.com bridge is simply a location that is one long distance call away from the consumer. The consumer makes a long distance call to get there and THE CONSUMER PAYS for the call based upon the rate and usage dictated in his long distance plan.
- The Consumer pays according to the plan marketed by his Long Distance Carrier.

How Should the FCC “Fix” the System?

- If the FCC merely enforced the rules already in place, requiring ALL companies that utilize the PSTN to pay for their use of the PSTN, then all Carriers would either price to their costs and/or they would stop offering Unlimited Long Distance Plans.
- Callers would again be price sensitive and natural market forces would guide behavior of market actors.
  - Carriers would once again be happy to get as much traffic as possible.
  - Carriers would not want to block calls or use “exhausted lines”.
  - Carriers would pay for the services they use.

Difference Between
Carrier and Unlimited Long Distance “Anti-Carrier”

Issues	Carrier	ULD – Anti-carrier
How Money is Made	Carrying Traffic	Not Carrying Traffic
Minute pricing	Per tariff (or avg. min. cost)	None (no per-minute price)
Usage Pricing	Per minute used	None (unlimited usage)
Payment Model	Post (some post & pre mix)	Pre-paid
What do they price to	Cost	Competition
Risk Level	None (low on avg. Min.)	High
Access Stimulation	For	Against
Subsidizing Conferencing	No	Yes
Conferencing Raises LD Prices	For Customer	For Carrier
User desensitized to cost	No	Yes
User thinks some calls should be blocked	None	None